Pauline A. Stipes, Official Federal Reporter

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1 THE COURT: All right. Good morning. You may be 2 seated. I know everyone is working on their computer issues, but let me get a few things on the record. 3 4 We are here in the matter of U.S.A. versus Willie 5 Boone, case number 22-CR-80175. Let's have all counsel first 6 state their appearance for the record. 7 MS. DARSCH: Good morning, your Honor, Shannon O'Shea 8 Darsch on behalf of the United States. With me here today is 9 Alex Chase and my case agent, Matthew Ward. 10 THE COURT: Good morning. 11 MR. SCHUMACHER: Good morning, your Honor, may it 12 please the Court, Howard Schumacher on behalf of Mr. Boone. 13 THE COURTROOM DEPUTY: He will be brought up shortly. 14 THE COURT: Okay. We won't get into anything 15 substantive. I do have the Government's witness list. Should 16 I have one from the Defense? 17 MR. SCHUMACHER: No, your Honor. 18 THE COURT: No exhibits, no witnesses? 19 MR. SCHUMACHER: Correct. 20 THE COURT: Okay. Did we get the thumb drive from the 21 Government with the exhibits yet? 22 MS. DARSCH: Yes, your Honor. We are uploading the 23 signed stipulations onto the flash drive and onto our jury 24 computer. 25 THE COURT: Okay, great.

Let me just see. Mr. Schumacher, when Mr. Boone comes up, I will want to ask you about whether Mr. Boone is waiving his right to sidebar conferences. If so, I have a written waiver. We will give that to you, so that is something you can take up with Mr. Boone when he gets here.

Just logistically, as soon as the jurors are ready we bring them in. We have about 40, they will be seated in the back, so you will be able to turn your chairs around. You will have a seating chart and the names of them. I will go through the initial 18 questions with them, copies of which you have, with any followup that I deem appropriate in light of any answer.

Then I will turn it over to each of you, Government for 15 minutes, you will let me know if you need more time, and same with the Defense. After that, we will excuse the jurors and give you time to review your notes, and then we will go through the selection process and we will pick our initial 12. No back strike. And then we will endeavor to get two alternates if we can, one additional peremptory for the two alternates.

Mr. Schumacher, did you want to say something?

MR. SCHUMACHER: Yes, Judge. I filed some proposed voir dire questions. I don't know if --

THE COURT: You did and I looked at all of them. I ended up including a version of one, number 14: Do you have

1 any opinions about or have you had any experience with firearms 2 that would prevent you from basing your verdict solely on the evidence? 3 4 I added that, but it doesn't preclude you from asking 5 questions that you submitted, as long as they are not 6 objectionable to the other side. The fact that I didn't 7 include them doesn't mean that I have made any determination 8 other than what I felt was appropriate for me to ask versus 9 what counsel would ask. 10 Thank you, Judge. MR. SCHUMACHER: 11 THE COURT: Were there any logistical or 12 administrative matters you wanted to go over? 13 MR. SCHUMACHER: Not from Defense, Judge, no. 14 MS. DARSCH: No, your Honor. 15 THE COURT: Just to get a sense from the Government, 16 who are your witnesses for today? 17 Let's assume we get through jury selection, I don't 18 know, by the morning or right after the lunch hour, and we 19 start with our -- how long are we expecting for opening, first 20 of all? 21 MS. DARSCH: For the Government, about 15 minutes. 22 THE COURT: Defense? 23 MR. SCHUMACHER: That is satisfactory, Judge. 24 THE COURT: 15 minutes for the Defense. Who would be

25

your first witnesses today?

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1
                           The Government's first witness would be
              MS. DARSCH:
 2
     Detective Raphael Chaves from the West Palm Beach Police
 3
     Department, and if time permits, Crime Scene Investigator Aisha
 4
     Eckroth from the West Palm Beach Police Department.
 5
              THE COURT: What is the last name?
 6
              MS. DARSCH: Eckroth, E-C-K-R-O-T-H.
 7
              THE COURT: How long do you think you will be with
 8
     Chavez?
 9
              MS. DARSCH: About an hour.
10
              THE COURT: Okay. How long do you think you will be
11
     with Eckroth?
12
              MS. DARSCH: About an hour, hour and a half.
13
                          Hypothetically, who is your third witness,
              THE COURT:
14
     if we were to get to a third witness?
15
              MS. DARSCH: Our third witness would be Officer Marcus
16
     Beesley.
17
              THE COURT:
                          How do you spell the last name?
18
              MS. DARSCH: M-A-R-C-U-S, B as in boy, E-E-S-L-E-Y.
19
              THE COURT:
                          Okay. About how long with Beesley?
20
              MS. DARSCH: About 30 minutes.
21
              THE COURT:
                          Okay. So that would be a possible lineup
22
     today should we even be able to get through all of them.
23
     are all available?
24
              MS. DARSCH: Yes.
25
              THE COURT:
                          Okay. All right. Let me let you continue
```

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1
     to upload what you are working on. Is there anything else
 2
     anybody wanted to go over?
 3
              MR. SCHUMACHER: No.
 4
              THE COURT: We will wait for Mr. Boone. They will
 5
     bring him up. Okay.
 6
              We will take a brief recess until those things happen.
 7
     Thanks.
 8
         (Thereupon, a short recess was taken.)
 9
                          Good morning, you may be seated.
              THE COURT:
10
              All right, and for the record, good morning, Mr.
11
     Boone. Mr. Boone is now with us.
12
              MR. SCHUMACHER: Yes, your Honor.
13
              THE COURT: Yes, okay. So, we will give you the
14
     seating chart and the list.
15
              THE COURTROOM DEPUTY: They have that.
16
              THE COURT: Do I have that?
17
              THE COURTROOM DEPUTY: Yes.
18
              THE COURT: And a list of the jurors. We have 40 of
19
            So, counsel and parties, ready for the Court to have the
20
     jurors come up?
21
              MR. SCHUMACHER: Yes, Judge.
22
              MS. DARSCH:
                           Yes, your Honor.
23
              THE COURT:
                          Okay.
24
              MR. SCHUMACHER: Judge, the jurors are going to be in
25
     the jury box and in the gallery?
```

1 Yes. I like to refer to the jurors by THE COURT: 2 their juror number, I don't use their names. When you are asking questions and following up with them, please be clear 3 about the juror number with whom you are speaking. 4 5 MR. SCHUMACHER: You do not want us to refer to them 6 by their last names? 7 THE COURT: No. It is much easier to do it by the 8 number in my experience. When I am referring to juror number 6, you know exactly who I am talking to, and likewise, we all 9 10 you know who you are talking to as opposed to the last name. 11 We do have 40 of them coming up. 12 You can move your chairs around so you will be able to 13 see the jurors. 14 I see Mr. Boone has waived his right to attend sidebar 15 conferences. Counsel will attend those sidebar conferences on 16 his behalf. 17 (Thereupon, the jury venire entered the courtroom.) 18 THE COURT: Good morning, everyone. You may be 19 seated. 20 I want to welcome you tot the Federal courthouse. 21 name is Judge Robin Rosenberg and I am presiding over this 22 matter here today, and we are grateful for you to be here and 23 fulfill your service as prospective jurors in this case. 24 The case before the Court today is United States of 25 America versus Willie Boone, case number 22-CR-80175, and I

would like to begin by welcoming you and having the attorneys who are here and the parties who are here introduce themselves to you.

Each and every time anybody is introduced to you, please listen carefully, as we would ask you to listen carefully to everything, because I will then follow up to see whether you know anyone who is involved in the case or whether you know anything about the case.

Let me first ask, by a show of hands, is there anyone who is not able to hear me clearly? If you cannot hear me clearly, please raise your hand.

Okay, seeing no hands. Okay, I saw a hand in the back row. Can you hear me better now?

THE JUROR: Yes.

THE COURT: I will make a point of speaking very clearly into the microphone. It is a big courtroom, so if at any time anybody cannot hear me, please raise your hand. And the same for counsel, make sure you are always speaking clearly into the microphone so we can ensure everybody hears us.

To my left is the counsel table for the Government, and I would like them to introduce themselves to you.

MS. DARSCH: Good morning, my name is Shannon O'Shea
Darsch, I am an United States Attorney, I represent the United
States. With me at counsel table is Assistant U.S. Attorney
Alexandra Chase and ATF Task Force Officer Matthew Ward.

THE COURT: Thank you. By a show of hands is there anyone here who knows anybody at the Government counsel table? Seeing no hands. Thank you.

And to my right, I am going to ask counsel to introduce himself and who is at your table for the Defense, Mr. Willie Boone.

MR. SCHUMACHER: Ladies and gentlemen, good morning. My name is Howard Schumacher, I'm a criminal defense attorney here in the Southern District of Florida, no relation to the car dealership. I will get that right out in front. It is my privilege to be representing Willie Boone today, seated to my right.

THE COURT: Is there anybody here who knows anybody at the Defense table? Seeing no hands.

The other persons who you will see from time to time in the courtroom are Court Security Officers, to whom we are very grateful to make sure that everyone is always safe and secure, and things are always orderly in the courtroom. So they will be coming and going throughout the days of the trial.

We have my courtroom deputy, Melanie Richardson, who orchestrates the coming and going of our witnesses, of our jurors, helps with exhibits, swearing witnesses in, and also makes sure that everything goes very smoothly and efficiently in the courtroom.

In front of me is Ms. Pauline Stipes, she is our court

reporter. It is important for us to know, for those of you who have not been in a courtroom before, that everything is taken down on the record. So, Ms. Stipes is taking down everything that we say, all of us, including when you speak, and you will speak because you will have to answer a number of questions that I and the attorneys will pose to you. We just want to make sure we are speaking clearly.

We will be giving you a microphone. When you answer questions, you don't respond with un-huh or uh-huh, or shake our head because that does not get transcribed clearly on to a record, and we want to make sure that everything is perfect with respect to capturing everything that goes on in the courtroom.

So, those are some preliminary comments I wanted to make.

Now, importantly, the first part of any jury trial is called the voir dire, or voir dire examination. Now I am going to ask Ms. Richardson to please administer the oath to each of you.

(Thereupon, the jury panel was duly sworn.)

THE COURT: Thank you. Now, the purpose of the voir dire examination is to attempt to determine if your verdict in the case would in any way be influenced by any experiences you may have had, any opinions that you currently hold, or any special training or knowledge that you may possess.

Please understand that the questions that will be asked of you by the Court and by the attorneys are not intended to pry into your personal affairs or to embarrass you in any way. I hope that all of you understand that it is important that we understand a little bit about your background so that the attorneys can make an intelligent decision whether or not this would be an appropriate case for you to serve.

The trial is estimated to last throughout this week.

It is unclear whether -- how many days exactly it will last,

but the expectation is that the trial will conclude this week.

We do generally start at 9:00 a.m. and we end anywhere between 5:00 and 6:00 o'clock p.m. It all depends on what witnesses have come, and whether they are in the middle of their testimony or not. Sometimes if a witness has traveled and is in the middle of testimony and it is the five o'clock hour, we might try to conclude the testimony so the witness doesn't necessarily have to come back, but we play it as it comes day by day, and I try to give you a good sense of what the schedule will look like.

Sometimes the first day feels long because we are going to go through the jury selection, and once those of you who are selected are seated, we then get into the case itself with the evidence. After that things tend to settle down and perhaps the days are not necessarily as long, but I will keep you posted as we proceed.

We take a mid-morning and a mid-afternoon break, we take a lunch break, and that is pretty much the schedule.

When you are seated, you will get to move to the more comfortable white chairs over there to my left. Some of you may think there is no way you can sit on those hard benches for more than a day, but the white chairs are much more comfortable and that, among others, is one of the privileges of being seated as a juror in this case.

Speaking about privileges, I hope that you all recognize that your jury service is a very important part of citizenship. It's a opportunity for you, the citizen, to participate in the judicial process by which the rights and liberties of your fellow citizens are determined. It is a high calling and I hope all of you would want to serve. If you do serve, you will find this to be a rewarding experience.

We do know that your time is valuable and we will do everything we can to make sure that your time is not wasted. I am sure that each and every one of you has another place to be today. I am certain there are personal obligations and professional obligations, but just about everybody who comes into a courtroom who is asked to serve as a juror, and to be honest, anybody asked to perform any kind of civil service or civic duty generally has other obligations.

The idea of civil service and fulfilling one's civic duty is that you for a brief period of time -- and believe me,

this is brief because even by trial standards, some trials can go weeks or months. To the extent that this trial may only last a few days of this week is on the shorter end of many trials.

Regardless, you have to understand that this is an obligation as a citizen of this country to serve. We would not have a jury trial system without you. The parties have waited a long time to have this trial, so they are depending on you as prospective fair and impartial jurors to serve the role that you are called upon if you are selected to serve in this case.

Now, I want to summarize the charges in this case.

The charges are set forth in a document called an indictment.

Let me emphasize that the indictment is merely a formal charge against the Defendant, Mr. Willie Boone. It is an accusation and the indictment is not evidence and is not to be considered by you as proof of guilt.

In this case, the Government alleges that the Defendant, Willie Boone, conspired with others to possess with intent to distribute certain drugs. And I actually should have asked counsel in the beginning, because the pronunciation of them is actually quite long.

Can I ask counsel to pronounce, so I don't get that wrong on the record, the four controlled substances that are at issue in this case?

MS. DARSCH: Yes. It's N-pyrrolidinoetonitazene,

methylenedioxymethamphetamine, cocaine, and butylone.

THE COURT: Which are all controlled substances. Thank you.

The Government further alleges that on March 3, 2022, Willie Boone possessed with intent to distribute those substances, but not the -- let me ask the Government to pronounce the ones that on March 3, 2022 Mr. Boone possessed with intent to distribute as alleged in the indictment.

MS. DARSCH: N-pyrrolidinoetonitazene, cocaine, and butylone.

THE COURT: Thank you.

The Government further alleges that on March 3, 2022, Willie Boone knowingly possessed a firearm in furtherance of a drug trafficking crime. The Government alleges that the firearm was a machinegun which is commonly referred to as a Glock switch.

The Government also alleges that on March 3, 2022, Willie Boone knowingly possessed a firearm in and affecting interstate and foreign commerce knowing that he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year.

The Government alleges the firearm is one Glock

Model 17, 9-millimeter semi-automatic pistol and one

Springfield Armory, Inc. Model XD-S 9-millimeter semiautomatic pistol.

Finally, the Government alleges that Willie Boone knowingly possessed a machinegun commonly referred to as a Glock switch not registered to him in the National Firearms Registration and Transfer Record.

You will be instructed what the elements are for each charge and the definitions to be applied to each as well at a later time in the trial.

Now, the burden of proof in this case is on the Government. The burden is on the Government to prove through production of evidence beyond a reasonable doubt each offense charged. You are to consider the evidence as it applies to each charge and -- as to each charge.

I said that the Government has to prove its case through the production of evidence. So, what is evidence exactly?

The most common source of evidence is witnesses who will come into the courtroom and take an oath to tell the truth and provide testimony from the witness stand, which is right here to my right.

The second most common source of evidence is tangible exhibits, documents, things that you can see and touch, that you take back with you to the jury room when you go to deliberate.

So, sometimes the parties choose to show you certain evidence in court, and you try to study it as closely as

possible and understand it, but know that any evidence that is actually admitted, any documents that are admitted into evidence, they go back with you so you will get additional time when you are back in the jury room deliberating to review those documents as well.

The third source of evidence is matters in which the parties may stipulate or agree to. The Defendant is not required to stipulate or agree to anything, but should he agree to something, that is a form or source of evidence that you should consider just like you would any other source of evidence.

And if there are stipulations I will read to you an instruction that explains to you exactly what a stipulation is, and you will hear what those stipulations are.

The fourth source of evidence is matters in which the Court may take judicial notice. That could be laws, records of this jurisdiction, in other words, matters of common knowledge.

These are the most common sources of evidence. Your function as jurors is to decide what evidence is reliable and you as jurors have the right to believe or disbelieve all or any part of the testimony of any witness in the case. You, and exclusively you the jury, will determine what the facts of this case are.

It is the Court's responsibility to determine all issues related to the law. The Court does that essentially in

two ways; the Court rules on objections made by the attorneys, and the Court instructs you at the end of the case on all the law you will need in order to decide the case.

When the lawyers make objections, they relate solely to matters of law totally within the Court's province, so you should not pay any attention to objections. Lawyers have a duty to make all objections they deem appropriate. You should not speculate on why they made an objection. If the Court sustains an objection, and the witness is not permitted to answer the question, you shouldn't speculate on what the witness might have said had he or she been permitted to answer. This — that is a matter of law not within your province.

As I said, at the end of the case it is the Court's job to instruct you on all the law that pertains to this case. Not only will I read the law to you, but each juror will be entitled to your own written packet of instructions and you will have it in the jury room when you go to deliberate your verdict. So you need not have any preexisting knowledge of the law when you come into court. We will instruct you on the law and give you the instructions to take back with you.

Now, the reason that we have you take an oath to follow the law whether you agree or not with the law, that is why — one of the reasons why you took an oath. Regardless of whether you agree or disagree, as a juror you have taken an oath to follow the law.

1 The verdict is your ultimate decision as to whether or 2 not the Government met its burden of proving through the 3 production of evidence the Defendant's quilt as to each crime 4 charged beyond a reasonable doubt. 5 With respect to the verdict, that verdict must be 6 based on two things, the evidence presented in the courtroom in 7 your presence and the law that the Court gives you. 8 Now, is there anyone here who could not base his or 9 her verdict solely upon the evidence and the law? If you are 10 unable to do that, raise your hand. 11 Just keep your hand up, and if I could just have 12 our -- can you just tell me your juror number? 13 THE JUROR: 9. 14 THE COURT: The other one? 15 THE JUROR: 19. 16 THE COURT: 9 and 19. Okay. 17 Is there anyone who could not fairly and impartially 18 evaluate the evidence in this case? If so, raise your hand. 19 What juror is that? 20 THE JUROR: 7. 21 7, okay, thanks. And I will followup with THE COURT: 22 each of you momentarily. 23 Having read the summary of the accusations in the 24 indictment, is there anyone who knows anything about the case?

If so, raise your hand. Seeing no hands.

Now, I want to just let you know a little bit about your conduct both as prospective jurors, and if you are selected, as jurors in this case.

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of the courtroom. This means that during the trial you must not conduct any independent research about the case, the matters in the case, and the individuals involved in the case.

In other words, you should not consult dictionaries or reference materials, search internet websites or blogs, or use any other electronic tools to obtain information about the case or help you decide the case. Please do not try to find out information from any source outside the confines of this courtroom.

Until you retire to deliberate, you may not discuss this case with anyone, even your fellow jurors. After you retire to deliberate, you may begin discussing the case with your fellow jurors, but you cannot discuss the case with anyone until you have returned a verdict and the case is at the end.

Many of you, of course, have cell phones, use the internet and other forms of technology. You must not use that technology or talk to anyone about this case or use these forms of technology to communicate electronically with anyone about this case, this includes your family and friends. You may not communicate with anyone about the case on your cell phone,

through email, iPhone, text messaging, Twitter, or through any blog or website, including Facebook, Google, My Space, Linkedin, You Tube, or any others. You may not use similar technology of social media even if I have not specifically mentioned it here.

I expect you will inform me as soon as you become aware of another juror's violation of these instructions. A juror who violates these restrictions jeopardizes the fairness of these proceedings and a mistrial could result, which would require the entire trial process to start over.

Finally, do not form any opinion until all of the evidence is in. Keep an open mind until you start your deliberations if you are selected as a juror until the end of the case.

Now, I am going to read the name of some of the individuals whose names may come up during trial, the names may be mentioned or they may be called as witnesses to testify, and I wanted to see by a show of hands as to whether anybody knows these individuals.

So, listen carefully. I will read the names slowly and raise your hand if you know any of these persons.

Officer Marcus Beesley. Detective Dustin Campbell.

Detective Raphael Chaves. Officer Anthony Ciravolo. Forensic

Scientist Todd Cohen. Aisha Eckroth. Mark Finnamore.

Frederick Fischer. La'Nisha Gittens. And lastly, Specialist

Damon Wright.

Okay, no hands from anybody in our venire.

Okay, at this point, ladies and gentlemen --

THE JUROR: We can't hear you.

THE COURT: Sorry. Somehow the microphone got turned off.

At this point, ladies and gentlemen, you have all been handed a piece of paper when you came in, and we will start with juror number 1. I think juror number one -- yes, you have your hand raised, so you have the privilege of setting the tone for all of the 40 jurors here. By that what I mean is, people start to get the hang of it after they hear a few jurors, so it might be harder for juror number 1.

But basically what you are going to do is stand up, talk into the microphone, and you don't need to repeat each of the points of information after the number. So, what you can do is, you can say, okay, juror number 1, I am an occupational therapist, I have been doing that for five years. I live in the Boca Raton area, I have lived there for four years. I am married, my spouse's occupation is this, and kind of go down the list that way.

I find that as we get into the jurors, because you have had time to look at the list, you might stand up and answer some of the first questions, and then you might say, Judge, questions 10 through 18 the answer is no, because you

have already looked at them and you know the answer is no. It tends to pick up a little bit as we go through the jurors.

Obviously, answer them truthfully and clearly, and if I have any followup questions, I will of course ask you those followup questions.

## BY THE COURT

- Q. So, without putting too much pressure on you, juror number 1, you can go first.
- A. Good morning, I am juror number one. My occupation, I am retired. I was a courier for an international boating company. I did cruise permits for boats coming in from outside of the country of the United States. I did cruise permits. Prior to that, I was ten years as an office manager for a grocery store up in Ohio.

I do live in Boynton Beach, I have been there for approximately five years. I am married, my spouse is retired. I have two children, the oldest is 33, she is a deputy sheriff for Summit County in Ohio. She works in the jail as an intake officer and processes the inmates as they come in. My second daughter is an office manager for an architect and engineering company. She is 29 years old.

My hobbies are reading and volunteer work at my church. I do have a daughter that is in the Criminal Justice System, she is a deputy sheriff, as stated. No family members or close friends have ever been a victim of a crime. No, I have never

- witnessed a crime. No, no family member or close friend have
  ever been accused.
- Q. So the record is clear, 11 is no, 12 is no. That might be the easier way to do it.
- 5 A. I'm sorry. 13 is no.
- 6 Q. 13, no.
- A. 14 is no. 15 is no. 16 is yes, I did both a criminal and a civil case in Ohio. I was never a foreperson, and yes, we were able to reach a verdict in both cases. 17 is no. 18 is
- 10 no.
- 11 Q. Okay, that was perfect. I just have a followup question 12 for you, but that was very clear and thank you.
- With respect to the one daughter you have who works as a deputy sheriff in Ohio as an intake officer, is there anything about her work that you think would interfere or prevent you in any way from being a fair and impartial juror in this case?
  - A. No.

20

21

- 18 Q. Okay. Okay. Thank you so much. Not to put too much
  19 pressure on the next --
  - MR. SCHUMACHER: Excuse me, Judge, could I have a copy of the questions? I don't have that in front of me and can't follow.
- 23 THE COURT: Sure.
- 24 BY THE COURT:
- 25 | Q. Juror number 2, if you could stand up and speak into the

1 | microphone clearly.

4

5

6

8

9

11

12

13

14

2 A. Juror number 2, my occupation, I work for City of Boynton

3 | Beach Utilities, I am the assistant supervisor. I live in Boca

Raton for the last ten years. I am married, my spouse's

occupation, she works for Gilbane Construction. We have no

kids. Number eight, barbecue and fishing, I went to the

7 | military after high school, '92 to '98.

And 10 through 18 is no.

Q. Gosh, that was quick. Juror number 2, you got it very

10 quickly. Thank you so much.

THE COURT: You are making copies for them?

THE COURTROOM DEPUTY: Yes.

## BY THE COURT:

- Q. Juror number three.
- 15 A. Good morning, I am juror number 3. I am a working student,
- 16 | I'm starting FAU, Florida Atlantic University in January, and
- 17 | I'm working in physical therapy and sports performance. My
- 18 general area of residence is Boca Raton, I have been living
- 19 | there for 22 years, my whole life. I am single, I do not have
- 20 | a spouse. I do not have any children. My hobbies are
- 21 | basketball and family time. I do not have any prior military
- 22 experience.
- 23 And 10 through 18 is no.
- 24 | Q. Okay. Just to be clear, you are not -- you are a student,
- 25 | but you are starting in January. You are not in classes now.

- 1 A. I did two years in New York and I took a semester off to
- 2 | focus on my career a little bit and I am starting in January.
- 3 Q. Okay, great.
- 4 THE COURT: Let's give those to counsel if we could.
- 5 BY THE COURT:
- 6 Q. Thank you so much. Juror number 4.
- 7 A. I am a dancer for Royal Caribbean Cruise Lines. I live in
- 8 Boca Raton, I have been there about ten years. I am single. 6
- 9 and 7 would be no, and obviously I am a dancer so --
- 10 | Q. I am sorry. 6 and 7 are no?
- 11 A. Correct.
- 12 Q. Yes.
- 13 A. 9 through 18 would be no as well.
- 14 Q. What about number 8?
- 15 A. Just dancing.
- 16 | Q. Not just dancing, that is interesting. All right, thank
- 17 you so much.
- Juror number 5.
- 19 | A. I am juror number 5. Occupation, I'm a fleet supervisor,
- 20 Town of Palm Beach Vehicle Maintenance Department.
- 21 | Q. What kind of supervisor?
- 22 A. Fleet. I live in Wellington, I have been in the community
- 23 | 18 years. I am divorced, I have two children, a daughter 29, a
- 24 | nurse; a son 24, works at a paint company.
- 25 My hobbies are fabricating and building different objects.

- 1 No prior military service.
- 2 | 10 is no. 11 is yes.
- 3 | Q. What was the basis for 11, answering yes?
- 4 A. Friends or a close friend -- no, I am sorry, 11 is no.
- 5 | Q. 11 is no, okay.
- 6 A. 12 is no. 13 is yes.
- 7 | Q. Okay, and what is that?
- 8 A. I have two friends who have served jail time.
- 9 | Q. Okay. For what kind of matters?
- 10 A. Money laundering, and one worked for the Federal Government
- 11 | and, I don't know, had fake jobs he submitted and got millions
- 12 of dollars. This is all in where I come from, Rhode Island.
- 13 | Q. Anything about the fact that you have close friends who
- 14 | have served jail time that would affect or interfere with your
- 15 | ability, if you are selected, to be a fair and impartial juror
- 16 | in this case?
- 17 | A. No.
- 18 Q. Okay. We are on number 14.
- 19 A. I have firearms.
- 20 Q. You own firearms?
- 21 A. I own firearms.
- 22 | Q. Okay. Is there anything about the fact that you own
- 23 || firearms and some of the accusations in the case involve
- 24 | firearms, is there anything about the fact that you own
- 25 || firearms that would prevent you from being a fair and impartial

- 1 | juror in this case if you are selected?
- 2 A. No.
- 3 | Q. Okay.
- 4 A. No religious matters.
- 5 | Q. Number 15 is no?
- 6 A. 15, no. 16, no. 17, no. And 18, no.
- 7 Q. Thank you so much. Juror number 6.
- 8 A. Good morning, I'm juror number 6.
- 9 Q. Good morning. Hold the microphone up close.
- 10 Unfortunately, sometimes the mikes have limited life span. We
- 11 | might need to switch it out, Rodney. That was a short life for
- 12 | that battery, we barely started.
- 13 | A. I am juror number 6. My current occupation is a
- 14 | construction project manager, I have worked for this company
- 15 | for more than five years. I live in West Palm Beach for over
- 16 | 15 years. I am currently married, my wife is a day trader. I
- 17 | have one child 16, currently in high school. My hobbies are
- 18 helping my wife in the backyard garden. No prior military
- 19 service.
- 20 And 10 through 18 are no.
- 21 Q. Thank you so much. Juror number 7.
- 22 A. Juror number 7, currently retired, previously a business
- 23 | consultant in the area of Boynton Beach, been there for five
- 24 | years. I am married, my wife is an attorney, children are
- 25 grown. One does window sales and the other is a therapist. My

- 1 hobby was boating until I had two surgeries --
- 2 | Q. Hold on, you have to speak a little clearer. Your hobby
- 3 | was boating?
- 4 A. My hobby was boating, but I had two recent surgeries his
- 5 | week, they just took the stitches out. I can't be in the sun,
- 6 so --
- 7 Q. Okay.
- 8 A. My wife is not in the Criminal Justice System, but she is
- 9 an attorney.
- 10 | Q. What type of an attorney is she?
- 11 A. Corporate.
- 12 | Q. Is there anything about your wife being an attorney that
- 13 | would affect your ability to be a fair and impartial juror in
- 14 | this case?
- 15 A. Not really.
- 16 | Q. Is that a yes or a no?
- 17 | A. That's a no. Number 11, my wife has been mugged, my
- 18 daughter has been accosted, my sister actually had an
- 19 ex-husband hold a gun to her head.
- 20 | Q. Your wife has been mugged. I'm sorry, it's getting --
- 21 A. My daughter has been accosted, my sister had her ex-husband
- 22 | hold a gun to her head.
- 23 | Q. Okay. And is there anything about those experiences -- how
- 24 | long ago did those things occur?
- 25 A. Over the last 20 or 30 years.

Q. Okay. Is there anything about those incidents that would affect your ability to be a fair and impartial juror in this case if you were selected?

A. I have a strong bias against guns and weapons. They have been traumatized and all kinds of affected by it.

Q. Again, speak as clearly as possible, it is a big courtroom. You have a strong bias against guns and weapons, and you said something else after that?

A. The family over the years have been traumatized.

Q. Sure and perfectly understandable, but recognizing that those experiences, of course, are personal experiences, and what we have here in this courtroom is something different and separate and involves guns nevertheless, as I indicated in the beginning.

Do you feel that the personal feelings you have and what you have couched as a strong bias against guns based on personal experiences would get in the way of your ability to have an open mind, listen to the evidence through the different ways that the evidence comes in, follow the law that I instruct you, and be a fair and impartial juror if you are selected?

A. Most likely, yes.

Q. It would interfere with your ability, okay.

A. Have I ever been a witness to a criminal matter or in a criminal matter?

Yes, very early in my career in a business context I was a

witness in a criminal matter. That, too, was a severely traumatizing event.

Number 13, no. 14, I gave you my opinion about firearms.

15, it is morally challenging to be responsible for somebody else in this type of situation.

I have not previously actually served on a jury. Physical and emotional difficulties, just since COVID, I had all the major preexisting conditions, so I literally have been indoors except on rare occasions since COVID started, which is why I continue to wear a mask. I rarely go to restaurants or public places in general.

Then 18, I have given you a bunch of reasons why I am not comfortable in closed spaces.

- Q. Say that again more clearly.
- 15 A. I'm not comfortable in closed spaces, and the various past
  16 experiences I have shared with you.
  - Q. Okay, thank you so much. You were juror number 7. Thank you so much. Juror number 8.
  - A. Good morning.
- 20 Q. Good morning.
- 21 A. I'm juror number 8. My occupation is a network 22 administrator.
- 23 Q. What is your profession?
- 24 A. Network administrator.
- 25 Q. Okay.

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- 1 A. I live in the Glades area, Belle Glade, all my life, 30
- 2 | years of my life, I am 30 years old. I am married, my spouse's
- 3 cccupation is a nurse practitioner. I have no children.
- 4 Hobbies is pretty much repairing things, setting up labs in
- 5 | cyber security. I have no military experience.
- I do have family members employed in the Criminal Justice
- 7 | System.
- 8 Q. What types of positions.
- 9 A. Law enforcement officers.
- 10 Q. Where are they law enforcement officers?
- 11 A. I have a brother in Hillsboro County, Tampa, another
- 12 | brother here, Palm Beach, PBSO, and I also very friends in PBSO
- 13 and West Palm.
- 14 | Q. Okay. I'm sorry, did I cut you off?
- 15 A. No.
- 16 Q. So, is there anything about the fact that you have family
- 17 | members and friends in law enforcement, including here in Palm
- 18 | Beach County Sheriff's Office and West Palm Beach, that would
- 19 | affect your ability to be fair and impartial if you are
- 20 | selected as a juror in this case?
- 21 A. No.
- 22 | Q. No. So you can keep an open mind, weigh the evidence,
- 23 | follow the law?
- 24 | A. Yes.
- 25 | Q. Nobody would be starting off ahead or behind because of

- 1 your relationship or friendship with persons in law
- 2 enforcement?
- 3 | A. No.
- 4 Q. Okay. You can continue.
- 5 | A. I had a family member, close friend victim of a crime.
- 6 Q. And what was that?
- 7 A. Family member, murder. I was very young, but I just
- 8 | know -- I don't know the details.
- 9 | Q. So you had a family member who was murdered when you were
- 10 | very young?
- 11 | A. Yes.
- 12 Q. I am sorry to hear that. Is there anything about that
- 13 experience in your past that would affect your ability to be a
- 14 | fair and impartial juror?
- 15 A. No.
- 16 Q. Okay.
- 17 | A. 11, witness. I have never been a witness in a criminal
- 18 matter. I had a family member, close friend accused of a
- 19 crime, but thankfully the crime was resolved.
- 20 | Q. Is there anything about that experience that would affect
- 21 | your ability to be a fair and impartial juror?
- 22 A. No.
- 23 | Q. Okay.
- 24 | A. Number 14, no. 15, no. 16, no. 17, no. Number 18, just
- 25 | based on my position with my employer, we are a very small

- team, I am pretty much the only one in my position. That is
  pretty much it.
  - Q. Does your employer know you are here today?
- 4 | A. Yes.

- Q. And you have obviously been given permission, as the law requires, for you to be here?
- 7 | A. Yes.
- 8 Q. If you are selected to serve as a juror, can you give your
- 9 | full attention, and even though I know you have work
- 10 | responsibilities, not let that distract you from the job you
- 11 | have here as a juror?
- 12 A. Yes.
- 13 Q. Okay, thank you so much. We will go to juror number 9.
- 14 A. Good morning, juror number 9.
- 15 Q. Good morning.
- 16 A. I was a tennis pro for 40 years, semiretired, live in Boca
- 17 | Raton a little over ten years. I am married still, spouse
- 18 semiretired. We have three children. The oldest is a wealth
- 19 manager up in Richmond, Virginia, our middle son is in the
- 20 construction business in Charlotte, North Carolina, and our
- 21 | youngest daughter is a trauma therapist working with drug
- 22 addiction.
- 23 Hobbies, work out, travel. No prior military. No family
- 24 | in the Criminal Justice System.
- I did have a close family member murdered with an illegal

- 1 weapon, this has been years ago.
- 2 Q. And I am sorry to hear that. Is there anything about that
- 3 personal experience that would interfere or prevent you from
- 4 being a fair and impartial juror in this case if you were
- 5 | selected?
- 6 A. Absolutely. In fact, my daughter deals with drug
- 7 | addiction, I hear horrible stories all the time so this is a
- 8 perfect storm for me personally.
- 9 | Q. Okay.
- 10 A. Obviously the firearms. 14 through 17, no. And then 18,
- 11 | the reasons I stated.
- 12 Q. Okay. And where does your daughter work?
- 13 A. She is in Savannah, Georgia.
- 14 | Q. Okay. And where were you a tennis pro?
- 15 A. In Pinehurst, North Caroline and then Charleston, South
- 16 | Carolina, and I moved to Boca and coached at FAU for a couple
- 17 | years and worked at three facilities here in Boca.
- 18 Q. Okay, thank you very much. Juror number 10.
- 19 A. Good morning, I am juror number 10. My occupation is cyber
- 20 security, I have been in that field for about 20 years. I live
- 21 | in Boca Raton, predominantly been there for most of 40 years.
- 22 | I am unmarried, I have two teen-age children, boys. They are
- 23 | in school, thankfully.
- 24 My hobbies include scuba diving, video games, and sports
- 25 | training. I am a former Marine. I have lots of friends who

are lawyers, law enforcement officers, both municipal and Federal.

- Q. Anything about those friendships with persons who are lawyers and in law enforcement that would affect your ability to be a fair and impartial juror if you are selected?
- A. I don't think so. They give me interesting stories sometimes, but I think I could put that aside.
- Q. Sometimes we speak loosely about we think and we hope, but the attorneys won't have a chance to change their mind about who they select as jurors. They need to do that based on your answers and the answers to the questions they are going to ask you.

Do you have any doubt in your mind, any reasonable doubt, that you can put aside friendships that you have and be openminded about the evidence that is presented in this case, the facts in this case, the law that it has given you in this case, and as a juror follow the requirement to apply the law to the facts?

- A. With respect to my friends, I would agree I can put that aside.
- 21 Q. Okay.

- A. Victims of crime, who hasn't been a victim of a crime or known somebody? I have been a victim of a crime. I have been a witness in a criminal matter.
  - Q. What type of a victim of a crime have you been?

- 1 A. Law malpractice, and I had a firearm stolen from my car.
- 2 | Q. Is there anything about the fact that you have been a
- 3 | victim of a crime that you believe would interfere with your
- 4 | ability to be a fair and impartial juror?
- 5 A. It gave me a different opinion of lawyers, they are not the
- 6 | tier I thought originally, after my malpractice, but I could
- 7 | put that aside.
- 8 Q. We have lawyers on both sides, so will you treat them both
- 9 equally?
- 10 A. Yes. I have nothing against the lawyers in front of us.
- 11 Q. Okay.
- 12 A. Firearms, I have extensive firearms experience, I own Title
- 13 | II firearms, not a Glock switch. I would like to own a Glock
- 14 | switch, but it is too expensive.
- 15 | Q. Okay. Is there anything about the fact that you have
- 16 extensive firearm experience and own firearms, and knowing what
- 17 | I have read as it relates to the accusations in this case
- 18 | involving firearms, is there anything about your personal
- 19 | ownership that would affect your ability to be fair and
- 20 | impartial?
- 21 A. I have kind of a negative opinion of ATF in general. They
- 22 | have been to my house unwarranted harassing me. I am sure they
- 23 have harassed others.
- 24 | Q. So, is that to say that you would be having preexisting
- 25 | feelings or opinions about one side or the other before you

1 | have heard any evidence?

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A. Yes, with respect to the firearms charges, I would have some suspicion about those. I would have prejudice against those.

And I have never served on a jury before. I have been called, but not selected. I don't have any difficulties that the Court hasn't heard before and would probably entertain why I can't be here.

- Q. Okay. So, I want to make sure I understand your position. Are you saying that because of certain feelings you have about ATF, because of the fact that the case involves firearms, and based on personal experiences you have had, you do not believe that you could reasonably put aside personal feelings and follow the requirements of serving as a juror in this case?
- 15 A. That's correct.
  - Q. Okay. Okay, thank you very much. Juror number 11.
- 17 A. Good morning.
- 18 Q. Good morning.
  - A. I'm currently retired, I have lived in North County for close to 50 years. I'm married, spouse, she has a residential appraisal company. I have no children. Hobbies, working rescue dogs. Everything else going forward is no, other than
- 23 6. I did serve on as a juror on a criminal trial, and I did
  24 not serve as the foreman.
- 25 Q. Okay, thank you very much. Okay, juror number 12.

- 1 A. Good morning.
- 2 Q. Good morning.
- 3 A. Number 12, retired elementary school teacher, 30 years. I
- 4 | have lived in Lantana all my life. Single, no children. Surf,
- 5 | golf, I like to read. No military service.
- 6 Q. Did you say no military service?
- 7 A. No.
- 8 | Q. Okay.
- 9 A. Number 10, no. Number 11, yes.
- 10 | Q. What are the circumstances of --
- 11 A. A former student was killed during a drug deal, they were
- 12 | looking to take his truck.
- 13 | Q. How long ago was that?
- 14 A. About ten years ago, maybe.
- 15 | Q. Okay. Is there anything about that experience that you
- 16 | believe would affect or interfere with your ability to be a
- 17 | fair and impartial juror if you are selected?
- 18 A. No.
- 19 | Q. Okay.
- 20 A. Never been a witness to a or crime, 12. 13, no. 14, no.
- 21 | 15, no. I served on a jury twice, criminal, I was foreperson
- 22 once and we reached verdicts twice. 17, 18, no.
- 23 | Q. Okay. Thank you so much. And juror number 13.
- 24 A. 13, I am retired, 33 years with the Clerk's Office, Palm
- 25 | Beach County, traffic and misdemeanor. I've lived in West Palm

- 1 all my life. I'm married, my husband is retired. I have an
- 2 older son that works for FPL. I love gardening.
- 3 | Q. I'm sorry, where does your son work?
- 4 A. FPL.
- 5 Q. FP&L, okay.
- 6 A. No military, nobody in the justice system, no victim of a
- 7 crime, no witness, never been accused of a crime.
- 8 Q. Okay. So, 11, 12, 13 are no?
- 9 A. As far as 14, about six months ago our neighbor was a
- 10 | victim of a driveby shooting in his house.
- 11 | Q. 14, a neighbor was a victim --
- 12 A. A driveby shooting in the house, the person was on our
- 13 property that did it. So I have issues with drugs and all
- 14 | that.
- 15 | Q. So, I do want to ask you then, how long ago was the driveby
- 16 | shooting?
- 17 A. About six months ago.
- 18 Q. Okay. Is there anything about that experience --
- 19 | recognizing the facts and circumstances and persons involved
- 20 | are different than what we have here in this case, are you able
- 21 | to put that experience and any opinions you have drawn from
- 22 | that experience aside, and be a fair and impartial juror if you
- 23 | are selected in this case?
- 24 A. No. I don't think so. I don't think I could.
- 25 The person that did it, the shells were found on our

1 property, so they were in our yard. No moral --

- Q. What is the next one?
- 3 A. No to number 15. Yes, I have been on a jury, it was a
- 4 | civil jury, I was not a foreperson. Yes, we did reach a
- 5 | verdict. No to 17. And 18, I don't think I could be impartial
- 6 because my neighborhood has become a gang and drug related
- 7 area.

- 8 Q. All right. Thank you so much. Juror number 14.
- 9 A. Juror 14, vice-president of sales. I have lived in the
- 10 Delray area last eight years. Single, I have a 26 year old
- 11 | son, civil engineer. I enjoy water sports, working out. No
- 12 | military service. Family members or friends in the Criminal
- 13 Justice System, yes, Probation Officer, attorney who is a
- 14 | brother-in-law, some friends that are attorneys, both criminal
- 15 and defense.
- 16 | Q. Anything about number 10 in terms of your friends and
- 17 | family members that would affect your ability to be fair and
- 18 | impartial?
- 19 A. It has given me a different opinion on the true court
- 20 system sometimes. In the future --
- 21 | Q. Let me just, is there anything about the different opinion
- 22 | of the Criminal Justice System that you think would bear on
- 23 | your ability to be a fair and impartial juror in this case?
- 24 | A. I would do my best to not separate it, but I have years of
- 25 hearing a lot of different stories, so.

I was a victim of a crime, identity and also vehicular stolen. I did identify that person. I was arrested for protecting myself --

Q. I need you to speak up.

- A. I have been accused of a crime also, a break up. 24 hours later, they arrested me for breaking up with her. I had a bad experience with the police with that.
- Q. Is there anything about that personal experience with the law enforcement with respect to your being arrested or accused of a crime that would affect your ability to be a fair and impartial juror in this case?
- A. I was thrown down two flights of stairs, my finger broken and my shoulder damaged. They said I didn't do anything wrong. And my hands were so blue from the handcuffs after 30 minutes, twelve hours of chained to the floor, I have a really unusual opinion sometimes about people that are innocent getting abused. I was one of those so it taints me.
- Q. Would that affect your ability to be fair and impartial in this case?
- A. Absolutely. While that happened there was a hundred thousand stolen from me. I told them to stop and the police didn't do anything, so it cost me a career, job, and a lot of money. That is how bad it is.

Other than that, I am supposed to have surgery, I've been waiting three months, it's supposed to be next week. If the

- 1 | trial takes that long --
- 2 | Q. Hold the --
- 3 A. I am scheduled for surgery on Tuesday. I think I answered
- 4 | them all. Is there anything else I need to answer?
- 5 Q. No. Thank you so much.
- 6 A. Good morning. Juror 15, I've worked for Palm Beach County
- 7 | School District for 22 years. I did take a brief time within
- 8 the program with PBSO to become a dispatcher for 911, but I
- 9 | left that situation due to health reasons and went back to the
- 10 school district.
- 11 Q. Is there anything about that experience that would affect
- 12 | your ability to be fair and impartial?
- 13 A. No, ma'am.
- 14 | Q. Okay.
- 15 A. I have lived in Loxahatchee for the past 15 years. I am
- 16 | married, I do not have children. I like to cook, work in my
- 17 | yard, spend time with my dogs.
- Number 9, no. 10, my neighbor is a PBSO deputy, but that
- 19 does not affect my ability to participate in this case if I
- 20 were chosen. Number 11, yes, my parents were burglarized in
- 21 | their home in New York.
- 22 And 11 through 18, no.
- 23 | Q. Okay, thank you. Is there anything about the fact that
- 24 | your parents were burglarized in New York that would affect
- 25 your ability to be fair and impartial in this case?

- 1 | A. No.
- 2 Q. Thank you so much. Juror number 16.
- 3 A. Juror 16, I am an office admin for 17 years now. I live in
- 4 Royal Palm for over 25 years. I am divorced. I have a
- 5 daughter in middle school. My hobbies are fishing and taxiing
- 6 her around to all her sports.
- 7 Number 9, no. Number 10, I do have friends in PBSO, but
- 8 | that would not affect me in this case. 11 and 12, no. Number
- 9 | 13, yes. Number 14 through 18, no.
- 10 Q. Okay, let me see here. You said number 13 was yes?
- 11 A. Correct.
- 12 | Q. What was the nature of that?
- 13 A. So, it is my ex-husband's sister and she is currently
- 14 accused of neglect, child neglect.
- 15 | Q. Okay. Anything about that experience that would affect
- 16 | your ability to be fair and impartial?
- 17 | A. No.
- 18 Q. Okay, thanks so much. Juror number 17.
- 19 A. Good morning, your Honor, I'm juror number 17.
- 20 Q. Good morning.
- 21 A. I am currently a financial crime specialist at a large
- 22 | financial institution in the states of New York and Florida.
- 23 | used to work with the U.S. Attorney's Office in West Palm
- 24 Beach, homicide division.
- 25 | Q. You worked with the U.S. Attorney's Office how long ago?

- 1 A. Summer of 2017.
- 2 | Q. What type of position did you have?
- 3 A. Internship.
- 4 | Q. Did you work with either of the attorneys here?
- 5 A. No.
- 6 | Q. Is there anything about your internship there that would
- 7 | affect your ability to be a fair and impartial juror if you
- 8 | were selected? What was the answer to that?
- 9 | A. No.
- 10 Q. Okay.
- 11 A. I am from the community, I have been here a long time. I
- 12 am married, my husband is a project manager with an advertising
- 13 | firm. No kids. I like to travel and garden. I haven't served
- 14 | in the military. I have a couple of family members who are in
- 15 | law enforcement.
- 16 Q. Anything about the fact that you have some family members
- 17 | in law enforcement that would affect your ability to be fair
- 18 and impartial if you are selected?
- 19 A. No.
- 20 Q. Okay.
- 21 A. 11, I have been the victim of a crime, attempted assault.
- 22 | 12 through 18, no.
- 23 | Q. Okay. I am sorry about number 11. Is there anything about
- 24 | the fact that you have been a victim of a crime that would
- 25 | affect your ability to be fair and impartial if you are

1 | selected?

A. No.

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Q. Okay, thank you. Juror number 18.

4 A. I am juror number 18, I work as a cake decorator for more

than eight years, and residence, West Palm Beach. I have been

here for 11 years. I am single. 6 to 18 is no. Number 8 is

7 | baking, traveling and eating.

8 Q. And what, eating? Okay. That is honest. Okay. Thank

9 you. Juror number 19.

A. Good morning.

Q. Good morning.

12 A. Juror 19, I am a nurse practitioner, I have been a nurse

practitioner for a year, but a registered nurse six years. I

14 | have lived in Boca Raton all my life, so 31 years. I am

15 | engaged, my spouse -- soon to be spouse is a cyber security

analyst. We have no children. I like to spend time with him,

and we have three dogs, which takes a lot of my time.

18 No prior past military experience. My fiance' does have

19 quite a few family members who were previously employed in the

Criminal Justice System, but no longer. They're all retired,

21 so I don't know if that matters.

Q. Anything about that fact that would affect your ability to

23 be fair and impartial?

A. No, ma'am.

Q. Okay.

1 A. Number 11 is yes.

- Q. What were the circumstances of that?
- A. I was a victim of domestic abuse. My brother was a victim
- 4 | of gun violence on I-95, and my fiance' was burglarized.
- 5 Q. And anything about those different experiences that would
- 6 | affect your ability to be fair and impartial if you are
- 7 | selected in this case?
- 8 A. Potentially, yes.
- 9 Q. What do you mean by that?
- 10 A. I mean it is a hypothetical situation, so I am saying yes
- 11 | because I can't tell you without a doubt no.
- 12 | Q. What is it -- what aspect of the case, of which no evidence
- 13 | has been presented, might you be concerned about not being able
- 14 | to be fair and impartial?
- 15 A. Well, let me tell you the one -- number 15 is the one that
- 16 | really is for me the one that is an issue because I feel like I
- 17 | live a very lawful life, but sometimes the law and my morals
- 18 | and ethics do not match. Sometimes the law takes a little bit
- 19 | longer to catch up with the current times, and as a medical
- 20 provider, I don't feel comfortable being the one who is
- 21 | responsible for saying that someone should spend the rest of
- 22 | their life in prison. I don't feel comfortable being
- 23 responsible for that.
- 24 | Q. Okay. Nobody is being asked here to make any determination
- 25 | about anything relating to time in prison or anything of that

- nature. The only job, although it is a big job, of a juror is to listen carefully, listen to all the evidence, weigh the evidence. You don't have to believe all the evidence, and I will give you instructions on credibility and things of that nature. Listen, keep an open mind, follow the law that I instruct you, so apply the law which, whether you agree with it or not, it is the law, you apply it to the facts that you hear in court and you deliberate with the other jurors, and render a
  - The ultimate question is, can you do that?
- 11 A. I don't feel like I can, no.
- 12 Q. Okay. All right.
- 13 A. Number 12 is no. Number 13 is yes.

verdict. That is your responsibility.

- 14 | Q. You answered that one, right? Accused of a crime, what was
- 15 | 13, what happened in that situation?
- 16 A. I have a close friend and a family member that have been
- 17 | accused of drug crimes.
- 18 | Q. Okay.

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- 19 | A. 14 is no. 15 we discussed.
- 20 | Q. Okay.
- 21 | A. 16 is no. 17 is no. I feel like 18 we discussed as well.
- 22 | Q. Okay, thank you very much. Juror number 20.
- 23 A. Good morning.
- 24 | Q. Good morning.
- 25 A. Occupation, house cleaning, Palm Beach.

- 1 Q. Okay. House cleaning?
- 2 A. Yes. Number 3, I live in Lake Worth. Number 4, I live
- 3 here 15 years. I am divorced, I have one daughter, she has 38
- 4 | years old, she live in Portugal.
- 5 My hobbies is cooking, go to church. And number 9, no.
- 6 10, number 10, no. Number 11, no. 12, no. 13, no. 14, no.
- 7 | 15, no. 16, no. 17, yes. 18, no.
- 8 Q. And what is it about number 17?
- 9 A. 17, I speak a little English.
- 10 Q. Okay. Have you had trouble understanding what we have been
- 11 | talking about so far this morning?
- 12 A. Um-m-m, now a little bit.
- 13 Q. You have only understood a little bit? Okay.
- 14 Are you concerned that you might not be able to understand
- 15 | everything if you are a juror in this case?
- 16 A. I think so, no. I understand a little bit.
- 17 Q. You understand a little bit. Okay, all right. Thank you
- 18 so much.
- 19 Juror number 21.
- 20 A. Good morning.
- 21 Q. Good morning.
- 22 | A. I have worked at the same nonprofit social service agency
- 23 | for 29 years, I work with children with special needs, I am a
- 24 program director. I have lived in Boca Raton for 26 years.
- 25 | I'm married, my husband is a computer engineer. I have two

- children, my 32 year old daughter is a licensed clinical social worker, and my son is a Sheriff's Deputy with Broward County, he's on road patrol.
- 4 Q. Given a close family member in law enforcement, do you
- 5 believe that there is anything about the fact that your son is
- 6 with the Broward County Sheriff's Office that would affect or
- 7 | interfere with your ability to be a fair and impartial juror?
- 8 A. No.
- 9 | Q. Okay.
- 10 A. I like to read and spend time with my dogs. No military
- 11 service. 10 is my son. 11 through 18 is no.
- 12 | Q. Okay. All right, thank you so much. Juror 22.
- 13 A. Good morning, juror number 22.
- 14 Q. Good morning.
- 15 A. I have an advertising agency, so I do industrial
- 16 | advertising, graphic design for 40 years. I live in Palm Beach
- 17 | Gardens, I have been there for 24 years, prior to that I was in
- 18 Miami. I am widowed and single, no children. Hobbies are
- 19 | shooting sporting clays, gardening, and collecting rocks and
- 20 | minerals. No prior military service. I do have a friend who
- 21 is a retired Federal Magistrate Judge and her husband is
- 22 retired FBI.
- 23 Questions 11 through 18, no.
- 24 | Q. Anything about your friend who is the retired Federal
- 25 Magistrate Judge and the retired FBI that would affect your

- 1 | ability to be a fair and impartial juror?
- 2 A. No. As the previous gentleman said, good stories, but no.
- 3 | Q. Federal Magistrate Judge in this courthouse?
- 4 | A. Yes.
- 5 Q. I think her picture is in the other courtroom.
- 6 Did you say one of your hobbies was shooting clay?
- 7 | A. Yes.
- 8 | Q. Is there anything about your hobby enjoying shooting that
- 9 | would affect your ability to be a fair and impartial juror?
- 10 | A. No.
- 11 | Q. Okay. Okay. All right. Thank you so much. Juror number
- 12 | 23.
- 13 A. Good morning.
- 14 Q. Good morning.
- 15 A. I am a registered dietician for over 20 years. I live in
- 16 | Boynton Beach, I have been there over 15 years. I am married,
- 17 | children are grown. Hobbies, cooking classic foods. 9 to 10,
- 18 no. Number 11 is yes. 12, no. 13, yes.
- 19 Q. Wait, you are going too fast for me. 11 was yes. Could
- 20 you tell me about that?
- 21 A. Yes, I had a brother that was murdered by law enforcement,
- 22 | so I do have very little trust in law enforcement. It was a
- 23 mistaken identity.
- 24 | Q. I am sorry to hear that. Could you put that experience
- 25 | aside in serving as a juror and keep an open mind, listening to

- 1 the evidence and following the law? Are you able to do that in
- 2 this case?
- 3 A. Yes, because I think justice was done in his case.
- 4 | Q. You believe you could be a fair and impartial juror?
- 5 A. I do have a natural distrust because of that experience.
- 6 Q. Well, are you going to be coming into this case with a
- 7 | distrust of one side or the other in this case?
- 8 A. It is kind of hard. My brother was only 16.
- 9 Q. Okay. So you have maybe some reasonable doubt whether as
- 10 | to you could do that?
- 11 A. Yes, I think it is a distrust of law enforcement.
- 12 | Q. Okay.
- 13 A. 13, I have a family member that had possession of
- 14 | marijuana. 14 to 17 is no. And number 18 is yes. My mom is
- 15 | having surgery November 9 and --
- 16 Q. And what? You said your mom is having surgery?
- 17 A. November 9th.
- 18 | Q. I don't think we are going to be in trial on November 9th.
- 19 | That is not this week, that is the following week, okay. All
- 20 | right. Thank you so much.
- Juror number 24.
- 22 A. Good morning.
- 23 Q. Good morning.
- 24 | A. Juror 24, I am a consumer banker for five years tomorrow.
- 25 | I live in Wellington, I have been there for over 20 years. I

- 1 am single, no spouse, no kids. Hobbies, working out, playing
- 2 | basketball, coaching basketball. No military service. No for
- 3 | 10. Victim of crimes, yes, for 11. 12, no. 13, yes. 14, no.
- 4 | 15, yes. 16, no. 17, no. 18, no.
- 5 Q. All right. Let me go back to some of the ones that you --
- 6 you said yes to number 11?
- 7 | A. Yes.
- 8 | Q. Can you tell me about that?
- 9 A. 2017, one of my closest friends was murdered over in
- 10 Renaissance on Military.
- 11 | Q. Okay. I am sorry to hear that. Is there anything about
- 12 | that personal experience that you have had -- you said in 2017?
- 13 | A. Yes.
- 14 | Q. -- that would affect your ability to serve as a fair and
- 15 | impartial juror if you are selected in this case?
- 16 A. Yes.
- 17 | Q. And can you explain that?
- 18 A. Just a natural distrust of law enforcement and the Criminal
- 19 | Justice System. I would prefer to be the one out of everybody
- 20 | in here, young black man, to sit on the jury because it's a
- 21 | young black man on trial, but other than that, yeah, I am a
- 22 little biased against law enforcement.
- 23 Q. Okay. All right. Okay, thank you so much.
- 24 And juror number 25.
- 25 | A. Good morning, I'm juror 25. Occupation, project manager

- 1 | with a large company here.
- 2 | Q. Hold on, give me one second here. Sorry about that.
- I am sorry, juror number 25, can you start from the
- 4 beginning?
- 5 A. Sure. Juror number 25, occupation, project manager for a
- 6 | large company here in Palm Beach.
- 7 | Q. Can you talk clearly into the microphone. Project manager?
- 8 A. Yes. Area of residence, Palm Beach Gardens, Lantana
- 9 community over ten years. Married, spouse is a CPA. Two
- 10 | children, 15 and 21, students. Hobbies, reading. No military
- 11 | service. 10, no. 11, yes. 12, no.
- 12 | Q. I am sorry, you said 11 was yes?
- 13 A. Yes, a friend's child OD'd.
- 14 | Q. What happened to the friend's child?
- 15 A. Overdosed at college.
- 16 Q. A friend's child overdosed. Okay. Is there anything about
- 17 | that experience with your friend's child that you think would
- 18 | affect your ability to be a fair and impartial juror if you
- 19 were selected in this case?
- 20 | A. Yes.
- 21 Q. What is that?
- 22 | A. It is involved with drugs and that is a redline from my
- 23 perspective.
- 24 || Q. Is what?
- 25 A. Is a redline from my perspective.

- 1 | Q. Okay.
- 2 | A. Number 12, no. Number 13, no. Number 14, no. Number 15,
- 3 no. 16, no. 17, no. And 18, no.
- 4 | Q. Okay. So I just want to understand. You said that a
- 5 | friend's child overdosed, and given that experience, you think
- 6 | that it would be hard for you to be a fair and impartial juror
- 7 | in this case.
- 8 Would you be able to put those feelings about your friend's
- 9 child aside, the facts of this case, of course, you don't know,
- 10 | would you listen to the evidence --
- 11 | A. I have a very strong --
- 12 | Q. I am sorry, what?
- 13 A. I don't think so. I have a very strong bias in this case.
- 14 | Q. A strong bias against drugs?
- 15 A. Yes, and the case right here.
- 16 | Q. Okay. All righty. Juror number 26.
- 17 A. Good morning, juror number 26.
- 18 Q. Good morning.
- 19 A. I run a public relations and marketing company. I reside
- 20 | in Jupiter, Florida and I have been there about ten years. I
- 21 | am married and I have one child who is full time in school. My
- 22 | husband is in real estate. My hobbies include paddle boarding
- 23 | and traveling and I am now adopting eating because I liked that
- 24 one.
- 9 is a no. 10, yes, I have a handful of neighbors and

- 1 | friends who are either police officers or lawyers.
- 2 | Q. Anything about that fact that would affect your ability to
- 3 be fair and impartial in this case?
- 4 A. No, your Honor.
- 5 | Q. Okay.
- 6 A. 11 is a no. 12 is a no. 13 is a no. 14, I own firearms.
- 7 | Q. Okay. Anything about the fact that you own firearms that
- 8 | would interfere or affect your ability to be fair and
- 9 | impartial?
- 10 A. I think I could put that aside.
- 11 | Q. In other words --
- 12 A. Yes, it won't affect me.
- 13 | Q. It won't affect your ability to listen to the evidence and
- 14 | follow the law in this case?
- 15 A. Yes.
- 16 Q. Okay.
- 17 | A. 15, no. 16, yes, I served on a jury, it was a criminal
- 18 case. I was not the foreperson and we did reach a verdict.
- 19 | 17, no. 18, no.
- 20 | Q. Thank you so much. Juror number 27.
- 21 A. Good morning, your Honor.
- 22 Q. Good morning.
- 23 A. My occupation is a general manager. During season I also
- 24 work at a mango farm. My general residence is in Loxahatchee,
- 25 | I have been living there for over 20 years, around 21.

I am divorced. I have one son who is in school. My current hobbies, when I am not taking his son to his, are serving at church and gardening. No prior military experience. I do -- my mother was formerly employed with the Federal Court system on the administrative side.

Number 11, I was the victim of a crime.

- Q. Let me go first to ask about your mother was with the criminal court?
- 9 A. Federal.

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- 10 Q. Federal?
- 11 A. Federal administration on the budget.
- 12 Q. Budget. Okay. Anything about your mom's prior experience
- 13 | with the Federal Court that would affect your ability to be
- 14 | fair and impartial?
- 15 A. No, your Honor.
- 16 | O. What was the next?
- 17 A. I was the victim of a crime, I was sexually assaulted when
- 18 I was a minor.
- 19 Q. Is there anything about that experience when you were a
- 20 minor that would affect your ability to be fair and impartial?
- 21 A. No, your Honor.
- 22 | Q. Okay.
- 23 A. I was never a witness to a criminal matter. 13, I was
- 24 | charged by the state, and I was later adjudicated with drug
- 25 | charges before I sought professional help from the sexual

- 1 assault problem.
- 2 Q. Okay. So you had been charged and adjudicated. Were you
- 3 | adjudicated one way or the other?
- 4 A. Adjudicated without the charges.
- 5 Q. Adjudicated without the charges, and this was for drug
- 6 | charges?
- 7 A. Yes, your Honor.
- 8 Q. How long ago was that?
- 9 A. 18 -- about 18 years ago.
- 10 | Q. 18 years ago?
- 11 A. About.
- 12 Q. Anything about that experience that would affect your
- 13 ability to be a fair and impartial juror if you were selected
- 14 | in this case?
- 15 A. No, your Honor.
- 16 Q. Okay.
- 17 | A. 13, no. 14, no. 15, no. I have never served on a jury
- 18 | before. For 17, I am struggling with sciatic nerve pain, so
- 19 | sitting here now, I am struggling in pain to sit for --
- 20 prolonged sitting is very difficult. Other than that, I don't
- 21 see any reasons I can't serve.
- 22 | Q. So, does it help if you can stand up with the pain?
- 23 A. Yes.
- 24 | Q. Okay. So, if the Court were to allow you even now, but
- 25 | also if you are selected, to stand up whenever you needed to,

- would that enable you to be comfortable if you were selected to serve as a juror?
- 3 A. Yes, your Honor.
- 4 | Q. Would it help to alleviate the pain?
- 5 A. Briefly. I have to alternate off and on.
- Q. If you are able to sit and stand as you needed to, would that minimize the pain you are experiencing?
- 8 A. Yes, your Honor.
- 9 Q. Okay. Okay. Thank you so much.
- Okay, we are now going to go to juror number 29.
- 11 | A. 28.
- 12 | Q. Sorry, 28.
- 13 A. Your Honor, I am a school psychologist, I have been with
- 14 | Palm Beach County School District for about ten years. I live
- 15 | in West Palm Beach, I have been here in Palm Beach County for
- 16 | all my life. I am married, my husband has a trucking logistics
- 17 | business. My children are grown.
- 18 Q. Hold the microphone closer to you. You said you have grown
- 19 | children. What do they do?
- 20 A. I have a daughter that is a project manager at a large
- 21 company, I have a son that is a barber and one that works in
- 22 sales.
- None of my family members or friends are employed in the
- 24 | justice system. 11, no. 12, no. 13, yes.
- 25 | Q. And what are the circumstances with 13?

- A. My son had a trespassing charge when he was younger, and my brother has an assault charge now.
  - Q. What type of charge did your son have?
- 4 A. Trespassing.

- 5 Q. Okay. Anything about the charges with your son and your
- 6 brother that would affect your ability to be fair
- 7 | and impartial?
- 8 Ms. Stipes needs to make sure. You said, no, it would not 9 affect your ability to be fair and impartial; is that correct?
- 10 A. That's correct.
- 11 | Q. Your brother is deceased?
- 12 A. He is deceased.
- 13 | Q. What did you say about your son?
- 14 A. He was younger at the time.
- 15 | Q. He is an adult now?
- 16 A. Yes. 14 through 18 is no.
- 17 | Q. Okay, thank you so much. Juror 29.
- 18 A. Good morning, juror 29, I'm currently a loan officer,
- 19 coming up on seven years. I also own my own business as a home
- 20 | inspector. I have live in Tequesta for 21 years. I'm married,
- 21 | two children in high school. My wife is a travel occupational
- 22 | therapist. We travel a lot due to sports.
- 23 9 through 15 is no. 16, I did serve on a jury, criminal,
- 24 | we did reach a verdict, I was not the foreperson. 17, 18, no.
- 25 Q. Okay, great, thank you. Juror number 30.

A. Good morning, juror number 30, I'm a Government regulatory affairs professional. I currently reside in Jupiter for four years. I was in Sarasota and Tallahassee previous to that. I m married, my wife is a human resources professional. In my spare time I paddle board, pickle ball, basketball and a lot of target shooting as well.

9 through 15 are no. 16, I have previously served on a criminal jury, we did reach a verdict, I was not the foreperson. 17, 18, no.

Q. Okay. Juror number 31.

A. Yes. Good morning. I am retired, I worked in a small company for 18 years prior to retiring. I live in Jupiter, Florida, I have lived in that community for six years. I previously lived in Connecticut. I am married, my spouse is retired and owns a landscaping company. I have no children. I volunteer in my community, boating, and traveling. No prior military experience. No family members or friends in the Criminal Justice System.

Number 11 is yes, I have had a family member a victim of crime.

- Q. Is there anything about that experience that would affect your ability to be fair and impartial?
- A. Um-m-m, I am not sure.
- Q. What type of crime was it?
- 25 A. My family member was murdered, shot and stabbed.

- 1 Q. I am sorry to hear that. How long ago was that?
- 2 A. 2008.
- 3 | Q. Okay. What do you -- when you say you are not sure, what
- 4 | are you thinking in terms of your ability to serve as a juror
- 5 | in this case?
- 6 A. Just because of the murder, being shot.
- 7 | Q. Okay. Do you feel as if you would have any reasonable
- 8 doubt that you could be fair in this case if this case, for
- 9 | example, involved a firearm?
- 10 A. I think I can be fair.
- 11 | Q. Okay.
- 12 A. Number 12 is no. Number 13 is yes.
- 13 | Q. And what is number 13?
- 14 A. My brother was accused of a crime, child pornography.
- 15 | Q. Okay. And what happened as a result of that?
- 16 A. He actually took his life.
- 17 | Q. Okay. I am sorry to hear that. How long ago was that?
- 18 A. 2007.
- 19 Q. Okay. And is there any aspect of that experience that you
- 20 | had back in 2007 with your brother that you believe would
- 21 | affect your ability to be a fair and impartial juror in this
- 22 | case?
- 23 | A. No.
- 24 | Q. Okay.
- 25 | A. No, 15, no. 16, no, I never served on a jury. 17, no, and

- 1 18, no. The only thing is I have a doctor appointment 2 scheduled on Monday the 6th.
- 3 Q. Okay. Okay.
- A. Good morning, juror number 32. I have been in Lake Worth
  for 36 years. I am an --
  - Q. Hold the microphone up. What is your profession?
- 7 | A. Accountant.

- Q. Accountant?
  - A. Yes. For just under 30 years, I have been in Lake Worth for 30 plus years. I am widowed, my husband was an auto mechanic. I have a 49 year old daughter who is an office manager at medical care review. 9 and 10 are no.

Number 11, we have been victims of petty theft, home break-ins, and we have a niece who had a drug overdose a couple of years ago. Neither of those will cause a problem with being impartial.

Number 12, we have not been a victim or witness. Number 13, my brother as a young man was drunk and disorderly and assaulted an Orange County officer, so he spent a couple of days in custody and served about eight years of probation.

I have a friend whose 18 year old college student recently, first year, with an open laptop in a dorm room, he was accused of possessing child porn with intent to distribute. He served five years in prison and five years probation. That would not influence me in my impartiality.

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14 through 17 are no. I have only one concern with 18, I have an appointment not this week, but next week that I wish to attend to. Q. Okay, that should be fine. Okay, thank you so much. Juror number 33. THE JUROR: Your Honor, can we stand up? THE COURT: Yes, of course you can stand up and step in the back and stretch as you need to. BY THE COURT: Q. Yes. A. Good morning, juror 33, I am an assistant manager at Jiffy Lube. I have been in West Palm Beach my whole life, 35 years. I am engaged. My spouse is an office manager for a soda company. I have a son who is 18 months old. My hobbies are working and taking care of him in my free time. No experience in the military. No to number 10. Number 11, yes, I have been a victim of a crime, attempted murder twice. Number 12 is yes, attempted murder on a LEO. Number 13, yes, myself, two battery charges.

Number 14, no. 15 is no. 16 is no. 17 is no. And 18 is no.

Q. Okay. With respect to -- you said yes to number 12, and yes to number 13, and yes to number 11. Could you tell me a little bit about those?

A. So, number 11, multiple homicides. I was also -- my life was attempted two times by two different men.

I was a witness in an attempted murder on a law enforcement officer by an ex-boyfriend, and number 13, I have been accused of battery two times.

- Q. Okay. Anything about those different experiences that you have just outlined for me that would affect your ability, if you were selected as a juror in this case, to be fair and impartial?
- A. No, ma'am.

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- 9 Q. Okay. Thank you so much. Juror number 34.
- A. Juror number 34, I am a systems analyst for the last six years. I live in Royal Palm Beach, I have been there for 28 years. I am married, my spouse is in marketing, two children, age 25, employee relations, and age 29, event management.

  Hobbies, being with my family and gardening. And 9 through 18
- Hobbies, being with my family and gardening. And 9 through 18 is no.
- 16 Q. Okay. Thank you so much. And juror number 35.
  - A. Juror number 35. I am a touring musician for about 15 years. I live in Royal Palm Beach for about eight years.
- 19 Divorced, no children. Playing soccer for hobbies, playing
- 20 guitar. No prior military. I have a friend who is a
- 21 | lieutenant, PBSO, and I also am a friend with a judge.
- Q. Anything about those relationships that would affect your ability to be a fair and impartial juror if you are selected?
- 24 | A. Yes.
- 25 Q. How is that?

- 1 A. Just I have also gone through the criminal system myself,
- 2 so I just don't have faith in it, and just talking to them.
- 3 | Q. Okay. Are you going to get to, I guess, your own
- 4 | experience in a moment?
- 5 A. Yes.
- 6 | Q. Okay.
- 7 A. Yes, I have been a victim of a crime. I haven't been a
- 8 witness to a criminal matter. I have been charged with
- 9 domestic battery.
- 10 Q. That is number 13?
- 11 | A. 13, yes.
- 12 | Q. And is that your experience with the Criminal Justice
- 13 | System?
- 14 A. Yes. 14, no opinion over firearms. 15, yes, just my moral
- 15 | beliefs. I don't think I could be fair as a juror. I have
- 16 | served on jury duty, criminal, we did reach a verdict, and I
- 17 was not the foreperson.
- 18 | 17, yes. And 18, yes.
- 19 Q. What is number 17?
- 20 A. Just my whole experience left me with PTSD, so.
- 21 | Q. Did this happen after you served as a juror before?
- 22 A. This happened after jury, yes, way after.
- 23 | Q. So you served as a juror awhile back, and then the issue
- 24 | with your charges happened after that?
- 25 A. Yes.

Q. And that is what changed your view?

care as a crisis counselor.

A. Yes.

- 3 Q. Okay. Okay, thank you very much. Juror number 36.
  - A. Hi, juror number 36, early childhood specialist for an early Head Start Center. Prior to that, I worked in foster

I live in Lake Worth and I have lived there for 20 plus years. I am married, my husband is a network analyst for the City of Boca Raton. I have three children, my oldest is a zoo keeper for Lion Country Safari. My twins, one is a student at UCF and the other at FTCU. My hobbies are crafting, reading, traveling. No prior military service.

10 is no, although my husband did work at the police department for the City of Boca Raton for several years.

- Q. Is there anything about that experience that would affect your ability to be a fair and impartial juror?
- A. No. 11 is no. 12 is no. 13 is yes, an uncle related by marriage killed his second wife and served several years in prison, and that would not affect my ability to be a fair and impartial juror.

14 and 15 is no. 16 is yes, it was criminal, but it resulted in a mistrial. And 17 and 18 is no.

- Q. Okay, thank you so much. Juror number 37.
- A. Hi, I'm juror 37.
- 25 Q. Good morning.

- A. And I wish to please be excused for I have a half brother
  that passed away Friday and I please would like to go to the
- 3 funeral. I have to get on a plane tomorrow morning to be in
- 4 Indiana.
- 5 Q. Okay. I'm sorry about that. Yes. If you could just go
- 6 through the questions, but I do understand your situation.
- 7 | Thank you.
- 8 A. Thank you very much. Okay. I am retired, and I live in
- 9 Green Acres, and I have lived there for eight years, and I am
- 10 married, and my spouse is retired, too. And I have two
- 11 | daughters, one is 37 and one is 36, and my 37 year old does
- 12 | murals for DisneyWorld and churches and birthday parties. They
- 13 do yard decorations and stuff for parties. And my younger
- 14 daughter, she don't have a job yet.
- I have no hobbies. Number 9 is no. Number 10 is no. And
- 16 | number 11 is yes. I had a daughter that was -- the guy tried
- 17 | to force her in his car and beat her up, and their trial is
- 18 going on today at nine o'clock at the other courthouse.
- 19 | Q. Okay.
- 20 A. And all the rest are no.
- 21 | Q. Okay. All right. Thank you so much. Thank you.
- Juror number 38.
- 23 A. Juror number 38, I have been working for the last five
- 24 | years for Lego. I am the senior import/export compliance
- 25 manager for the Americas. I currently live in Wellington for

the last three years. Prior to that, I have always lived in Connecticut. I am divorced. I have two beautiful daughters, ten and nine years old.

Hobbies, I love to travel and running. 9 is no. 10 is no. 11 is no. 12 is no. 13 is no. 14, I do have an opinion, I am anti-firearms. I believe they do more harm than good. 15, no. 16, no. 17, no.

18, like I said, the only reason I have there is due to my critical role and because of the time, the next three weeks we are in the middle of peak season, as you can imagine. All the Lego toy sets need to get to the destinations prior to the holidays. That is about it.

Q. I can definitely imagine that being a busy time for Lego.

With respect to your answer to number 14, and you mentioned that you are anti-firearms and you feel they do more harm than good.

As I stated in the beginning, each person can come into the courtroom with personal experiences, as many have, most in fact have, and opinions about a number of things, including drugs or firearms, but the ultimate question is not whether you have those opinions, but whether you are able to put those opinions aside, and whether you can consider the evidence and the law with an open mind and be fair and impartial if you are selected as a juror in this case.

The facts have not been revealed, the evidence has not been

- 1 presented, and so, are you able to fulfill your role as a juror
- 2 | if you are selected in this case despite having certain views
- 3 | about firearms?
- 4 A. I believe that is a starting point. From my point of view
- 5 | it is different.
- 6 Q. You believe you cannot put your personal views aside; is
- 7 | that what you are saying?
- 8 | A. Correct.
- 9 Q. Okay, thank you. Juror number 39.
- 10 A. Good morning, your Honor.
- 11 Q. Good morning.
- 12 A. Juror 39, I am a pilot at a corporate flight department, I
- 13 have been there for five and a half years. I live in Jupiter,
- 14 | I have been there five and a half years. I am married, my wife
- 15 | is in retail. I have three boys, the oldest is 21, he is in
- 16 construction out in Oregon, and the younger two are full-time
- 17 | students.
- Skydiving coach, I have skydiving as a hobby. I was in the
- 19 Marine Corps for 21 years. 10 through 18 are all no.
- 20 | Q. Okay, all right, thank you so much. Juror number 40.
- 21 A. Good morning.
- 22 Q. Good morning.
- 23 | A. I work for food industry. I work in vinegars for ten
- 24 | years. Married, I have a son six years old. Hobbies, travel,
- 25 | family time.

- 1 | Q. What is your hobby?
- 2 A. Travel and spend time with the family.
- 3 | Q. Okay.
- 4 A. 9, no. And my wife work for Palm Beach County.
- 5 | Q. Where does your wife work?
- 6 A. She work for ten years now, she change her career to human
- 7 resources, but she work for Palm Beach County Youth Services
- 8 Department.
- 9 Q. Youth Services?
- 10 A. Correct.
- 11 | Q. Okay.
- 12 | A. 10, okay, I answered already. 11, no. 12, no. 13, yes.
- 13 | 14, I have an opinion about arms. 15, 16, no. 17, I am in the
- 14 grievance process, my mom passed away last week.
- 15 | Q. I am sorry about your mother. She passed away last week?
- 16 A. Correct.
- 17 | Q. Do you have matters to tend to this week, is there a
- 18 | funeral or other things?
- 19 A. No. No. In my country it is pretty fast. She passed away
- 20 | last week, the next day they take care of that, and I come back
- 21 | last week after the funeral.
- 22 | Q. Do you feel, in light of that, are you able to concentrate
- 23 and to serve as a juror?
- 24 | A. Yes, I can.
- 25 | Q. Okay. And you said you had opinions about firearms. What

1 | did you want to say about that?

- A. I come from a country, the Government take the arms out of you, and where are the arms? They are on the streets now. I
- 4 think we need to keep them yourself if something happens.
- 5 Q. What country are you from?
  - A. Ecuador.

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Q. Ecuador, okay.

So in this case, you haven't heard anything about the case yet, but if you are selected you will. Can you serve as a juror? Can you keep an open mind and listen to the evidence and apply the law that I give you to the facts to render a fair and impartial verdict?

- 13 A. Yes.
  - Q. Okay. All right. Thank you so much.

THE COURT: All right. Ladies and gentlemen, I want to thank you for answering my questions. And can I see whether at this point the Government has any questions of our jurors.

MR. SCHUMACHER: Your Honor, I am sorry, could we take a mid-morning break?

THE COURT: Yes, we could take a mid-morning break.

It is 11:15. Why don't we take a mid-morning break for ten minutes.

At 11:25 if you could be lined up ready to come back.

You can use the restroom and anything else you may need to do.

What you cannot do, as I instructed you in the beginning, is to

speak with anybody among yourselves or anyone else about the case. We are still going through the process, so you can talk with each other, but nothing about what has gone on in the courtroom even if it doesn't seem important.

And importantly, also, take a good look at the parties and lawyers. There are many of you, but fewer of them. You are not to have any interaction with them. They will try to avoid you, but if you see them, avoid saying hello or conversing. That is so that all communications between jurors, lawyers, and parties occur in the courtroom.

So, when we bring you back we will continue with the Government asking you any questions they may have and the Defense asking any questions they may have, and hopefully before the lunch hour we will be able to select the jury and be ready to present evidence following the lunch hour.

We will be back in ten minutes, at 11:25. Remember to follow those important instructions. Thank you.

(Thereupon, the jury venire left the courtroom.)

THE COURT: Okay, we will be in a brief recess and be back in ten minutes. I would ask counsel to avoid the jurors, if you need to use a separate floor for the restroom. Okay.

(Thereupon, a short recess was taken.)

THE COURT: Okay. Shall we bring our jurors -- I
don't know whether you had a chance to look at your notes. Are
there any that you both agree, based on their answers to my

1 questions, are subject to a cause challenge so as not to have 2 to spend time asking them questions? Do you want to go through that and see if you all agree on that? 3 4 MS. CHASE: Would you like us to do this on the 5 record? THE COURT: Yes. You can stand together and look with 6 7 each other. 8 MS. CHASE: Your Honor, I think, if I just begin, 9 juror number 7 was strongly anti-qun. 10 THE COURT: Does the Defense agree? 11 MR. SCHUMACHER: Yes. 12 THE COURT: Yes, 7 says he would be biased given his 13 family experience with guns, and he did raise his hand in the 14 very beginning with respect to my question about whether he 15 could base is verdict on the evidence and the law. 7 stricken 16 for cause. 17 MS. CHASE: Same with juror number 9, she also raised 18 her hand immediately and followed up with strong anti-gun 19 feelings because her family member was murdered. 20 MR. SCHUMACHER: Agreed, Judge. 21 THE COURT: The Court's notes comport with that as 22 well, so 9 is stricken for cause. 23 MS. CHASE: 10, your Honor, expressed strong feelings 24 against ATF, which is the client agency for the United States 25 in this matter. He said he is suspicious of law enforcement

1 and has had personal interactions with ATF. Given that, we do 2 not believe he could be fair and impartial in this matter. THE COURT: Defense? 3 4 I agree, Judge. MR. SCHUMACHER: 5 THE COURT: The Court's notes comport with that as 6 well, so 10 is stricken for cause. 7 MS. CHASE: Your Honor, number 14 also expressed a 8 strong dislike of law enforcement and indeed said that the 9 innocent are accused. 10 THE COURT: Defense? 11 MR. SCHUMACHER: Agree, Judge. 12 THE COURT: 14 also is stricken for cause based on the 13 Court's review of its notes, based on the answers to the 14 Court's questions. 15 MS. CHASE: Your Honor, juror number 19 raised her 16 hand immediately at the beginning with the Court's question 17 whether anyone could not be fair and impartial. She also 18 expressed strong feelings against law enforcement and said a 19 close friend and family member were accused of drug crimes. 20 THE COURT: Defense? 21 MR. SCHUMACHER: Agreed, Judge. She also indicated 22 that because of her brother's incident with gun violence on 23 I-95 that she couldn't tell the Court without a doubt she could 24 be fair and impartial. 25 THE COURT: The Court agrees, so 19 is stricken for

cause, and she also raised her hand in the beginning.

MS. CHASE: Your Honor, I don't know whether 20 has a language issue that would prevent her from serving on this jury.

MR. SCHUMACHER: Judge, I think she did. She said she only understood a little bit, and then the Court asked some followup questions to that and many of the responses seemed to be unresponsive.

THE COURT: Yes, I agree. 20 is stricken for cause based on language.

MS. CHASE: Your Honor, juror number 23 had a brother who was murdered and also expressed distrust of the Criminal Justice System based on that experience.

THE COURT: Defense?

MR. SCHUMACHER: She indicated, Judge -- I noted that she appears to be an African-American female, but I think she is Jamaican by her dialect, she said she had little faith in law enforcement, but she did say that she could be fair. She did say it would be hard because her brother was 16 years of age at the time.

I think if either party wishes to make further inquiry, I'd like to see if she could be rehabilitated. I think there are maybe a total of three to four of African-American descent on the jury. Since Mr. Boone is of African American descent I'd be hesitant to --

1 If you want to question her THE COURT: Okay. 2 further, that is fine. These are only once that you both agree She will not be excused at this time. 3 4 MS. CHASE: For the record, your Honor, the United 5 States would note that she later indicated in the Court's 6 questioning she could not be fair. 7 Number 24, he is a young black man, however, he made 8 that an issue when he said he could not be fair and impartial 9 towards law enforcement because of the manner in which his 10 friend wads murdered. 11 THE COURT: Defense? 12 Judge, that was a little different. MR. SCHUMACHER: 13 Even though, again, he is of African-American descent, and he 14 pointed that out of course, he specifically said he couldn't be 15 fair, and that he had a distrust of law enforcement, so I don't 16 oppose that. 17 THE COURT: Okay. 24 is stricken for cause. 18 Your Honor, juror number 35 said he had no MS. CHASE: 19 faith in the criminal system, and additionally had moral 20 beliefs that precluded him from serving on the jury. 21 THE COURT: Defense? 22 MR. SCHUMACHER: Agreed, Judge. 23 THE COURT: The Court agrees. 35 is stricken for 24 cause. 25 MS. CHASE: Your Honor, juror number 39 was strongly

1 In addition, he had issues with his employment anti-firearm. 2 that would likely preclude him from service. MR. SCHUMACHER: 38 or 39? 3 4 THE COURT: 38. Defense. 5 MR. SCHUMACHER: Agreed, Judge. 38 is stricken for cause based on his 6 THE COURT: 7 feelings about the firearms, not about his work. 8 Is that the totality of the cause challenges to which 9 both sides agree at this juncture? 10 MS. CHASE: Likely we have the same one, your Honor. 11 I believe that juror number 40 expressed strong feelings about 12 firearms. 13 I don't know that he specifically --MR. SCHUMACHER: 14 THE COURT: No. 40 said he could be fair. He talked 15 about what happened in his country with guns, but I would 16 disagree with that at this juncture. 17 Any others? 18 MR. SCHUMACHER: Yes, Judge. Defense would seek to 19 excuse for cause juror number 37, just because of the family 20 issue of having to travel to Indiana. She also indicated --21 THE COURT: She would be traveling tomorrow, I think. 22 MS. CHASE: We don't oppose, your Honor. 23 THE COURT: 37 will be stricken for cause. Okay. 24 MR. SCHUMACHER: Judge, I apologize, there is one 25 more -- two more, sorry.

Defense would seek to excuse for cause juror number 13. She is a member of the -- former member of the Clerk of the Court. She indicated that her neighbor suffered a driveby shooting, and if I remember correctly, she is the individual that said some of the shells were found in her yard. It seemed to have an impact on her presentation.

She also specifically said that she has issues with drugs and guns, and she also indicated that she couldn't be fair because of those feelings.

THE COURT: Government.

MS. CHASE: Your Honor, we did have some followup questions that we wanted to probe to see if she could be fair.

THE COURT: All right. Any others for now?

MR. SCHUMACHER: Yes, Judge. Defense would seek to strike for cause juror number 25. This is the gentleman who, I believe it was a friend's child overdosed at college and specifically said that he couldn't be fair. He also indicated that he was strongly biased against anything involving narcotics.

THE COURT: Government.

MS. CHASE: Your Honor, we don't oppose that.

THE COURT: Okay, the Court agrees. 25 would be stricken for cause at this point.

MR. SCHUMACHER: Finally, the Defense would seek to strike for cause juror number 31. She indicated -- when asked

1 whether or not she could be fair, she indicated that she wasn't 2 sure. In fairness, she did later after say, I think I could be fair, but there has been an equivocation on her part after 3 repeated questioning by the Court. 4 5 THE COURT: Government? 6 MS. CHASE: We were going to seek to rehabilitate her, 7 your Honor. 8 THE COURT: All right. We will keep her in for now. 9 I will review the ones you all have agreed to and the 10 Court has agreed. Juror number 7, 9, 10, 14, 19, 20, 24, 25, 11 35, 37 and 38, correct? 12 MS. CHASE: Yes. 13 MR. SCHUMACHER: Yes, your Honor. The two question 14 marks are juror number 31 and juror number 13? 15 THE COURT: Yes. All right. So the ones you have 16 agreed to, clearly you don't need to ask questions of them. 17 That was the purpose of doing that now. 18 Let's bring our jurors in. I will let you know when 19 your 15 minutes are up, and you can tell me if you need any additional time. 20 21 MR. SCHUMACHER: May I ask one question of the Court? 22 I haven't tried a case before your Honor, I don't know 23 if the Court goes in secondarily after counsel on both sides asks their questions to ask about anything relative to general 24 25 instructions in terms of proof beyond a reasonable doubt,

1 anything like that. 2 THE COURT: It is part of the preliminary 3 instructions. No, you can inquire of that if you want to as 4 part of your 15 minutes, I am not going to do any additional 5 followup. The preliminary instructions, I go into it extensively, but if you want to air that beforehand, that is 6 7 fine. 8 MR. SCHUMACHER: And nothing on the Defendant not 9 testifying? 10 THE COURT: No. Actually, it is not part of the 11 questions, so that is something you can address if you would 12 like to. 13 MR. SCHUMACHER: I am happy to do that, Judge. 14 Because of that, I would ask for a little bit longer. 15 THE COURT: When the 15 minutes are up, just ask me. 16 That is fine, I like to give people the time they need. 17 MR. SCHUMACHER: Thank you, Judge. 18 THE COURT: Not a problem. Okay, let's bring our 19 jurors in. 20 (Thereupon, the jury venire returned to the courtroom.) 21 THE COURT: Welcome back, everybody, you may be 22 seated. I thank you for giving your full attention to the Court and my questions, and now if you also could give your 23 24 attention to the attorneys who may have some questions for you. 25 First from the Government, any questions?

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Question 13.

Just remember to speak into the microphone so we can hear you. When you are addressing any one juror in particular, please make sure to identify the juror with whom you are speaking by number so we know who you are talking to on the record. BY MS. DARSCH: Good morning. I have a question for juror number 8. Good morning. Good morning. Α. Q. I have a question --THE COURT: We need you to talk into the microphone. BY MS. DARSCH: Q. -- relating to one of your answers on question 13, have you or any family member or close friend ever been accused of a crime? You indicated you had a family friend that was a victim of a crime and it involved a murder. I am sorry to hear about that, and I don't mean to probe. In a different setting I wouldn't be asking you about these questions. Could you give us a little more details about that? The question that you are asking is number 12, 13 -- 12 and Α. 13? Q. Yes, please. Α. Number 12, if I had been a witness to a crime?

A. Sorry, 13, yes. 13, pretty much, I was young at the time as well, but it involved my dad and pretty much in self defense he pulled out a gun, and as far as I know, like everything was resolved, and pretty much he was — you know, he was found not guilty, and pretty much that is as far as I know about the case.

But there was that case, and then I had a brother as well, a long time ago -- my brother, I was young as well, and it happened at the South Florida Fair, involved law enforcement, and pretty much I was young. By the time I understand the case, pretty much, he was like abused, he was beaten down, that was not needed, went to court in regards to that as well, and it was fought for his record to clear. The case that was placed on him, he won the case as well, and his record was cleared of that incident.

So in detail, that is the involvement of 13. I am sorry, was it just 13 or was it 11 as well?

- Q. No, it was just 13. If you could clarify, how long ago was the incident with your father, approximately?
- A. I would say maybe 20, 20 years ago. I am 30 now, and I was maybe like seven, eight at the time it happened.
- Q. I am sorry to hear about that.
- A. Okay.

THE COURT: Because your back is to us --

BY MS. DARSCH:

- Q. Despite these incidents with your friend and your father, are you able to serve as a juror and keep an open mind and listen to the evidence in this case and apply the law and render a fair and impartial verdict?
- A. Yes, I can have an open mind in regards to the case.
- Q. So, yes?
- A. Yes.
  - Q. Thank you. And next I have a question for juror number 13.

    Relating to question 11, have you, any family member or

    close friend ever been a victim of a crime, and you indicated

    that you and your neighbor were victims of a driveby shooting

    that occurred while in your front yard. Could you again,

    I am sorry to hear about that, and could you give us a little

    more details about that incident?
  - A. It was drug related, it was my neighbor, they shot through his whole house. Luckily they were sleeping so it hit the headboard and not a child, but the person that did it was in a car and they were in our yard, and when the police came the shell casings were found in our yard.

Being my age, it is traumatic.

Q. I am sorry to hear about that. But it is the Government's burden in this case to prove guilt beyond a reasonable doubt, and we have to put forward the evidence in this case and we have to do it beyond a reasonable doubt, and you would just be

looking at the evidence in this case and applying the law that you are instructed to apply by the Court.

So, after looking at the evidence in this case and applying the law, do you think you could set aside that negative experience and render a fair and impartial verdict?

A. I am not really sure. I live in a very crime-ridden neighborhood lately, a lot of gangs have moved in, and so, we don't even go out of our house because of that. So, I don't know. I am very prejudice against drugs and guns.

I would gladly own a gun myself, but I don't feel like I -I don't feel safe in my neighborhood due to the gangs and drugs
infiltrating.

- Q. I am sorry to hear about that. In this incident, did you feel that you were treated fairly by law enforcement?
- A. Yes.

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- 16 | Q. Okay. No further questions.
- 17 A. I never had a problem with law enforcement.
- 18 Q. All right. No further questions, thank you.
- 19 I now have a question for juror number 23. Good morning.
- 20 A. Good morning.
  - Q. I have a question relating to your answer to question number 11 which states, have you, any family member or close friend ever been a victim of a crime, and you indicated, yes, that your brother was unfortunately murdered, and you have little trust in law enforcement.

I am sorry to hear about the situation with your brother, but based on your low trust in law enforcement, based on the mistaken identity, can you be fair and impartial in this case given what you had indicated was a natural distrust for law enforcement regarding that experience?

- A. To be honest, no.
- Q. No? Okay. No further questions.

  The next question is for juror number 30. Good morning.
- A. Good morning.
- 10 | Q. You answered that one of your hobbies was target shooting.
  - A. Yes.

- Q. I just had a question for you. Given your experience with firearms involving your hobby, would that prevent you from basing your verdict solely on the evidence?
  - A. No.
    - Q. Thank you. My next question is for juror number 31. I had a question regarding your answer to question number 11, have you, any family member or close friend ever been a victim of a crime, and you indicated, yes, that you had a family member that unfortunately was murdered and stabbed, but that you think you can be fair.

I am sorry to hear about this incident, but do you think, despite this incident, that you could render a fair and impartial verdict and listen to the evidence in this case and apply the law?

1 | A. Yes.

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Q. Thank you. And I apologize, I have one more question for juror 31.

There was a question -- an answer you provided relating to question 13, have you, any family member or close friend ever been accused of a crime, and you indicated there was an incident involving your brother.

Do you recall what agency this was with?

- A. He was in the Air Force, and it was back in Grand Forks Air Force Base.
- Q. Do you recall what agency charged him with the crime?
- 12 A. I'm not sure. I think -- I am not sure. It was a bit
- confusing because he was an active airman, and I think it had
- 14 | to do in Grand Rapids.
- 15 | Q. Okay.
- 16 A. North Dakota.
- 17 | Q. Do you recall if it was a Federal agency?
- 18 A. It was.
- 19 Q. But you don't recall --
- 20 A. It was too long ago, it was in 2007, and a lot of
- 21 | confusion.
- 22 | Q. Could you -- despite the incident with your brother
- 23 | relating to question 13, could you listen to the evidence in
- 24 | this case and apply the law to the evidence in this case and
- 25 render a fair and impartial verdict?

1 Α. Yes. 2 Thank you. And then I have one general question for 3 everyone, and if anyone answers yes, if you could just show your hand. 4 5 Generally it relates to drugs. Does anyone here think that 6 all drugs in the United States should be legalized? 7 Just one. Okay. 8 THE COURT: Do you want to identify the juror number? MS. DARSCH: Could you please tell me your juror 9 10 number? 11 THE JUROR: 10. 12 MS. DARSCH: Juror number 10. No further questions 13 with juror number 10. 14 Thank you for your time. 15 THE COURT: Okay, thank you very much. Are there any 16 questions for the Defense? If so, you may proceed. 17 MR. SCHUMACHER: Yes, your Honor, please the Court. 18 Ladies and gentlemen, good morning once again. 19 THE COURT: Mr. Schumacher, if you would use the 20 microphone since your back is to us. Ms. Stipes has to get 21 down what you are saying. 22 MR. SCHUMACHER: I want to ask a couple of followup 23 questions and then go into a little bit of the law you might have to apply in the case. Again, I already introduced myself. 24 25 Let me tell you who I am not. I am not any of the characters

that you have watched on Law and Order, Defense attorneys, or anything like that. I tell you that because when you watch those shows, the one thing that is always the case is that the Defense attorney is always the person that is actually bringing the facts out that allows the juries many times to find the person not guilty. I am going to attempt to do that in this case.

Is there anybody that doesn't understand that the Government has the full burden in this case, the ladies that are sitting to my left and the agent sitting to their left? Defense has no obligation to do anything in this case. Does anybody disagree with that fundamentally?

Okay. While we are talking about that, the Judge is going to instruct you that because of that presumption of innocence, you have to look at Willie Boone right now and presume him to be not guilty. Is there anybody at all for whatever reason who has a problem doing that?

Yes, ma'am. And that is juror number 9. Okay.

Ma'am, I apologize, I have your name here, but for ease of the Court Reporter, we are supposed to be using numbers.

## BY MR. SCHUMACHER:

- Q. Is there anything other than what you had previously told us as far as the reasoning behind that?
- A. No, exactly what I said.

Q. Thank you. Again, it is difficult for me because my mom always told me to call somebody Mr. and Mrs., but for ease of the Court Reporter, that is why we are doing this.

Juror number 8, I know you provided to us, sir, some incidents that occurred, I believe, with your father and your brother; is that right?

A. Correct.

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- Q. Okay. As we sit here today, do you think in retrospect that they were treated fairly in the Federal justice system?
- A. As far as the results, I know there was results, I did not fully understand fully what happened. So going by the results, and their incidents and what happened, you know, their incidents and the record is clear. As far as what happened in the entire, you know, I just -- as far -- I just stated that
- 15 | thankfully their record is clear, and assume everything went
- 16 | fairly. Again, I was young at that time.
- Q. Sure. Is there anything about that that is going to
  prejudice you or make the Government start at an uneven playing
  field in this case just because of that occurrence in your
- 20 | life?
- A. Um-m-m, no. Just like I stated, I will keep an open mind and hear both sides, and day-to-day I understand where I come
- 23 from crime is all around, but they are just -- you know, just
- 24 the truth to either side. Again, I will have an open mind.
- 25 Q. Thank you.

Other than juror number 14 -- you had expressed, sir, some specific things that you had learned either because of people you knew in law enforcement or in the Criminal Justice System.

Other than that gentlemen, and I know a lot of people expressed that you have friends, close friends or neighbors that are in law enforcement or the Criminal Justice System, including but not limited to lawyers. I would address this next general question to everybody that applies to.

Is there anybody, other than juror 14 who already expressed it changed the way he thought, any of those stories, any of the stories that were related to you that changed the way you may view Mr. Boone as we he sit here today?

No. Okay.

I think it is juror number 22, are you in the back? Yes, ma'am, is that you?

A. Yes.

Q. I think you said that you had some conversations with both your friend that was a U.S. Magistrate and a retired FBI.

Here is my question to you, ma'am. Any of those stories that changed the way you might view a criminal defendant?

- A. No. They were mostly funny stories.
- Q. Okay, good, glad to hear that.

Let me ask you this, ma'am, do you think it is possible in a general sense that just because of what somebody might be charged with, not convicted but charged with, that you may view 1 | them differently?

- A. I would tell you no, that I think I do have an open mind and I'm willing to sit and listen to the evidence as presented.
- 4 Q. Okay. Do you think that there are some crime or crimes
- 5 that somebody could be charged with that could in fact change
- 6 the way you look at them right now before you have heard any
- 7 | evidence and look at them differently?
- 8 A. I'm not -- I am not trying to look at Mr. Boone any
- 9 differently. I am a clean slate right now for you guys to
- 10 present.

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- 11 Q. Okay, appreciate that.
- 12 Again, having heard no evidence, I appreciate that is your
- 13 opinion and you are trying to be fair, but do you have
- 14 | children?
- 15 A. No.
- 16 | Q. Do you have nieces or nephews, anything like that?
- 17 | A. No.
- 18 | Q. Do you think if you heard, for instance -- this isn't the
- 19 | case here, but let's say there was a crime against children and
- 20 | it's a neighbor that moved in right next to you and you were
- 21 | aware of that. Do you think that might change the way you went
- 22 | about your everyday life?
- 23 A. Well, sure, yes. Yes.
- 24 | Q. Because of the charge, right? It is common, right? Can't
- 25 | we all agree that would be a common response to a very serious

1 | crime?

A. Yes.

Q. So, in this case, we are talking about allegations of guns, in fact an automatic gun, and narcotics, okay, and I think we can all agree that that is a recipe for disaster, right,

narcotics and drugs together?

A. Okay.

Q. If somebody moved in next to you, for instance, and you knew they were charged with an offense involving guns, an automatic weapon, and narcotics, you are going to view them differently, correct?

A. I would definitely not want to probably have them over for dinner, they wouldn't be my friends. My friends don't do drugs if you want to continue this. That is not my -- that is not my lifestyle.

Q. Let me open this to the panel, then. Maybe somebody is not really — because of all of the things we talked about before, because of our own personal life experiences, maybe this isn't the right case for you to be sitting on, and other than the people that have expressed that already, is there anybody, after we talked about it a little bit and now that we have heard some of the answers from your co-jurors, that think this is not the right case for me, for reasons other than what you already expressed, anybody have a second thought about it?

Pauline A. Stipes, Official Federal Reporter

No, this isn't for me, I can't really be fair and

impartial. I can't look at Mr. Boone the same way. Out of 40 people, anybody?

Okay. What about the notion that -- this is for everyone, what about the notion that the Government has the sole burden of proving beyond a reasonable doubt, does anybody think that is unfair? Nobody?

How about, can we agree that it is normal human behavior to want to hear both sides of the story? Anybody disagree with that?

Pretty common response.

Juror number 32, yes, ma'am. What if you are instructed — and we were talking about this, you want to hear both sides of the story, right? You agree with that in general?

- A. My natural curiosity is to see -- my natural curiosity is to know the other side, but that is not going to be my instruction.
- Q. If you are instructed, for instance, that the Defense has no burden of proving anything to you, and specifically Mr.
- Boone has no obligation to take the stand in this case, is that going to bother you?
- 21 A. No.

- Q. Because, you know, there is this natural human idea that we want to hear both sides of the story.
  - A. It is the natural curiosity. That is my own personal curiosity and during the Court process --

1 THE COURT: Is the microphone working? 2 BY MR. SCHUMACHER: 3 So you think you could put that aside? 4 I can put that aside, yes. Α. 5 You can follow the instructions that the Court gives you? Q. 6 Α. Yes. 7 Getting back to the entire panel, is there anybody that Q. 8 feels different than juror number 32? Anybody that says, as far as I am concerned, I got to hear from Mr. Boone, he has to 9 10 take the stand and I need to be able to weigh that? I don't 11 think I can follow the Judge's direction that he is allowed to 12 maintain his Fifth Amendment right of not saying anything in 13 this case. 14 That is not a problem for anyone? Okay. 15 Juror number 12, sir, you indicated that you were an 16 educator and have done that for a lot of years? 17 Thirty years. Α. 18 Thirty years. Thank you for your service. 19 You indicated that you had a former student that had been 20 killed; is that right? 21 Α. Yes. Is that someone that you actually taught, sir? 22

Pauline A. Stipes, Official Federal Reporter

And did you -- did that have an impact on you when that

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Yes.

occurred?

- 1 A. Yes. As I said, it is hard to lose one of your kids. It
- 2 | is like I am an artist and I had a special bond with all of my
- 3 children. You get invited to birthdays, graduations, weddings
- 4 | I have been to, and this was out of character. Yes, it was
- 5 devastating.
- 6 Q. Forgive me, I tried to take as best notes as I could, but
- 7 was that in a shooting?
- 8 | A. Yes.
- 9 Q. Obviously, for me, as Mr. Boone's lawyer, and he as the
- 10 Defendant in this case, we are concerned about any kind of life
- 11 | experiences that may have an impact. I am assuming you went to
- 12 | the funeral?
- 13 | A. Yes.
- 14 | Q. It was an emotional time period, correct?
- 15 A. Yes.
- 16 | Q. How long ago was that?
- 17 A. About ten years.
- 18 | Q. There is no allegation of violence in this case, but there
- 19 | is allegations of narcotics and really a high powered weapon
- 20 here. Any of those things, should that be cause for concern
- 21 for either myself or Mr. Boone that maybe those personal
- 22 | impacts might have a carryover effect for you if you are seated
- 23 || on the jury?
- 24 | A. I would hope not, but -- when I start to talk about it, it
- 25 || gets --

- Q. I can see you are getting emotional.
- A. Yes.

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- Q. As far as that is concerned, do you think maybe this is not
- 4 | the right case for you to sit on as a juror?
- 5 A. Possibly.
- 6 Q. If you had to ascribe an amount of doubt here as far as
- 7 | whether or not you could follow the Court's instructions in
- 8 | this case and be fair and impartial and put aside that horrible
- 9 experience in your life, what would you say, ten percent, more
- 10 | than that, less than that?
- 11 Again, I know it is hard to quantify, but -- you have sworn
- 12 | a duty, and I know you want to follow that, just like all of
- 13 you do, but is this a case for you?
- 14 A. Possibly not.
- 15 Q. Okay, thank you.
- 16 Let me open this to the panel, and I know there are a
- 17 couple of individuals that have expressed an outright distaste
- 18 | for firearms.

- 19 Is there anybody that if -- I am assuming that the
- 20 Government his going to try to introduce firearms in this case
- 21 and those may be passed around to you having been made safe.
- 22 Does that cause anyone anxiety about the notion -- okay, I know
- 23 you expressed that to us previously.
  - Anyone other than this gentleman that that is going to
- 25 create a problem or cause you to be anxious? Okay.

What if -- let's expand on the firearm issue for a second.

THE COURT: Letting counsel know it is about 16

minutes.

MR. SCHUMACHER: Yes, your Honor.

Let me ask you this, some of you expressed that you like firearms, you engage in activities with firearms. At least one individual I can remember indicated that there was a firearm stolen from his vehicle.

Let's change the scenario for a second. What if you hear evidence in this case, ladies and gentlemen, that the firearms that you may or may not see in this case were firearms that were previously reported stolen; does that change any of your answers at all you have given to the Court and counsel for the Government previously?

Do you find that -- not only is Mr. Boone accused of being a convicted felon possessing firearms, but now we hear that one or more of those firearms may have been reported previously stolen. Does that change anybody's answers about being fair and impartial or maybe this isn't the right case for them at all?

Thank you.

Judge, I am going to wrap it up, your Honor, just a couple of other questions.

Juror number 27. In the back, Officer. Sir, good morning. I noticed that you have been up and down a number of

times here today, and we totally understand your medical situation. How has the experience been as far as from a comfort standpoint? Is this something that if you are sitting for maybe two days, three days, four days, is this going to be distracting at all for you based on the amount of pain you are feeling?

- A. No, sir.
- Q. You feel comfortable that you can sit as a juror in this case if asked?
- 10 | A. Yes.

11 | Q. Okay, thank you.

MR. SCHUMACHER: Judge, I don't have anything additional.

THE COURT: Okay, thank you so much.

Ladies and gentlemen, thank you for giving us your undivided attention. We will go into a brief recess now with the same important instructions that you not discuss the case with each other or with anyone else with whom you might be in contact.

I am going to give the attorneys and their clients an opportunity to review their notes and they are going to let me know who among all of you they will be selecting as jurors in this case. So, when I bring you back in I will be able to excuse some and let others know who will be seated as jurors.

Please continue to follow the instructions and we will

1 be back as soon as we can conclude the next session with the 2 attorneys and the parties. We will be in a brief recess with 3 those instructions. Thank you. (Thereupon, the jury venire leaves the courtroom.) 4 5 THE COURT: Do counsel need a few minutes to look at 6 your notes before we go into the conference? 7 MR. SCHUMACHER: Yes, we do, Judge. 8 THE COURT: Could you spend some time to look at your 9 notes and see if you agree on any other cause challenges. 10 you do, let me know when we first get back together. If you 11 don't, but anyone has cause challenges to which the other side 12 objects, we will take those up first and then get right into 13 the peremptories. 14 Thank you, your Honor. MS. CHASE: 15 MR. SCHUMACHER: Thank you, Judge. 16 THE COURT: Thank you. 17 (Thereupon, a brief recess was taken.) 18 THE COURT: Okay, were there any additional cause 19 challenges that you agree on? 20 MS. CHASE: Yes, your Honor, I believe the parties 21 agree on juror number 13 and juror number 23. 22 THE COURT: Okay. Is that correct? 23 MR. SCHUMACHER: Yes, ma'am, it is. 24 THE COURT: So 13 is stricken for cause. And the 25 other is which one?

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MS. CHASE: 23. 1 2 THE COURT: Okay. Defense agrees? 3 MR. SCHUMACHER: Yes, your Honor. THE COURT: 23 is stricken for cause, and the Court 4 5 agrees. 6 Any others? 7 Judge, I'm sorry, I believe I do have MR. SCHUMACHER: 8 one more. Bear with me, Judge. Defense would seek to strike 9 for cause juror number 12. 10 THE COURT: Number 12? 11 MR. SCHUMACHER: Yes. He is the former educator for 12 29 years. He got very emotional during the course of my 13 questioning of him relative to sitting on a case involving 14 That was, in fact -- the death of that student that 15 impacted him so hard was in fact a shooting. He mentioned that 16 he went through the process of going to the funeral. He 17 mentioned specifically that all of these cases -- all of his 18 students are people near and dear to his heart and they become 19 a part of him. 20 On top of that, he equivocated each and every time I 21 asked him whether or not this was a case for him and whether or 22 not he could follow the Court's instructions, saying something 23 to the effect of -- I don't remember his exact response, but it 24 was equivocated on all of those occasions. He never gave a

clear response as to a case involving a firearm, an automatic,

coupled with drugs and the attendant potential violence that could occur as a result of that.

THE COURT: Government.

MS. CHASE: Your Honor, we don't believe the situation was quite so strong. He said that this was possibly not the case for him. I don't believe he went so far to say he could not be fair and impartial, just that possibly this was not the case for him.

THE COURT: That is what I have in my notes. Did you see that he said he could not be fair and impartial? He said possibly it is not the right case to sot on, possibly not the case for him.

MR. SCHUMACHER: Judge, even before I went down that road, I asked him whether or not he could follow instructions, put his personal feelings aside based upon what he has been through, and I think his response — it was equivocated, I don't remember the exact verbiage, but it was not yes. It was never yes.

THE COURT: Okay. The Court is going to overrule the objection. Defense can use that as a peremptory. My notes reflect that he did say he would not be affected by the death of the student. When he was asked if this would impact him in this case, he said, I would hope not. And counsel asked if it may possibly not be the right case for him as a juror, but I think that is different materially so than saying he could not

1 be a fair and impartial juror, could not put personal feelings 2 aside to follow the law and consider the evidence. 3 I am going to overrule it as to any request for it to 4 be a cause challenge and let counsel consider it for peremptory 5 if that is what you would like to do. 6 Is there --7 MR. SCHUMACHER: Over objection, your Honor. 8 THE COURT: Yes. Is there any other cause challenges 9 by anyone? 10 Not from the Government, your Honor. MS. CHASE: 11 MR. SCHUMACHER: Not from the Defense. 12 THE COURT: The first 12 jurors, it's juror number 1, 13 2, 3, 4, 5, 6, 8, 11, 12, 15, 16 and 17. That is our first set 14 of 12. 15 So I am going to start -- we will go back and forth 16 between each side as to who goes first, and we will start with 17 the Government, and we will start with juror number 1. 18 What would the Government like to do with juror number 1? 19 20 MS. CHASE: Accept. 21 THE COURT: Defense. 22 MR. SCHUMACHER: We exercise a peremptory, your 23 Honor -- I am sorry, was this one --24 THE COURT: Juror number 1. 25 MR. SCHUMACHER: No objection.

1	THE COURT: So accept. Juror number 1 is the first
2	juror.
3	Now I will start with the Defense, juror number 2.
4	MR. SCHUMACHER: Move to strike juror number 2.
5	THE COURT: So that is Defense's first peremptory.
6	Now our pool of seven I mean our jury of 12 goes to juror
7	number 18, in other words, that is the first 12.
8	And then I am going to go to the Government for juror
9	number 3.
10	MS. CHASE: Accept.
11	THE COURT: Defense.
12	MR. SCHUMACHER: Accept.
13	THE COURT: Okay. Juror number 3 is the second juror.
14	Juror number 4, Defense, juror number 4.
15	MR. SCHUMACHER: We accept, your Honor.
16	THE COURT: Government.
17	MS. CHASE: Accept.
18	THE COURT: Okay, juror number 4 is our third
19	peremptory is our third juror.
20	Now we go to juror number 5, starting with the
21	Government.
22	MS. CHASE: Strike.
23	THE COURT: That is the Government's first peremptory.
24	Our jury of 12 now goes to juror 21. Given all of the cause
25	challenges in between to get to the first 12, that brings us to

1	juror number 21.
2	Now we go to juror number 6 and I turn to the Defense.
3	MR. SCHUMACHER: Judge, we strike juror number 6.
4	THE COURT: That is Defense's second peremptory. That
5	brings us to juror number 22.
6	Going to the Government for number 8.
7	MS. CHASE: Accept.
8	THE COURT: Defense.
9	MR. SCHUMACHER: Accept, your Honor.
10	THE COURT: Okay, juror number 8 is our fourth juror.
11	Now we go to juror number 11.
12	Beginning with Defense, juror number 11.
13	MR. SCHUMACHER: Judge, Defense would strike Mr
14	juror number 11. Sorry.
15	THE COURT: That is Defense's third peremptory. That
16	brings our first 12 to juror number 26.
17	Now we go to juror number 12, Government.
18	MS. CHASE: Accept.
19	MR. SCHUMACHER: We are on 12 now, your Honor?
20	THE COURT: We are.
21	MR. SCHUMACHER: Strike him.
22	THE COURT: That is Defense's fourth peremptory. That
23	brings our jury of 12 to juror number 27.
24	Juror number 15 from the Defense.
25	MR. SCHUMACHER: Accept, your Honor.
l	

1 THE COURT: Government. 2 MS. CHASE: Accept. THE COURT: Juror number 15 is our fifth juror. 3 4 Now number 16, Government. 5 MS. CHASE: Accept. THE COURT: 6 Defense. 7 MR. SCHUMACHER: Accept, your Honor. 8 That is our sixth juror. THE COURT: 9 Now juror number 17, Defense. 10 MR. SCHUMACHER: Move to strike, your Honor. 11 THE COURT: That is the Defendant's fifth peremptory. 12 That brings the jury to juror number 28. 13 We go to juror number 18, from the Government. 14 MS. CHASE: Accept. 15 THE COURT: Defense. 16 MR. SCHUMACHER: We accept, your Honor. 17 THE COURT: Juror number 18 then is our seventh juror. 18 And that brings us to juror number 21, from the 19 Defense. 20 MR. SCHUMACHER: Accept. 21 THE COURT: Government. MS. CHASE: Accept. 22 23 THE COURT: Juror 21 is our eighth juror. 24 That brings us to juror 22, Government. 25 MS. CHASE: Accept.

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1	THE COURT: Defense.
2	MR. SCHUMACHER: Strike, your Honor. That was juror
3	number 22, correct?
4	THE COURT: It was. That was Defense's sixth
5	peremptory. That brings our jury of 12 to juror number 29.
6	So now, from the Defense, juror number 26.
7	MR. SCHUMACHER: Accept.
8	THE COURT: Government.
9	MS. CHASE: Accept.
10	THE COURT: Juror 26 is our ninth juror.
11	Juror number 27, from the Government.
12	MS. CHASE: Strike.
13	THE COURT: That is the Government's second
14	peremptory. That brings our jurors to juror number 30 for the
15	first 12.
16	Now juror number 28, from the Defense.
17	MR. SCHUMACHER: Juror number 28, is that correct?
18	THE COURT: Correct.
19	MR. SCHUMACHER: Accept.
20	THE COURT: Government.
21	MS. CHASE: Accept.
22	THE COURT: Juror number 28 is our tenth juror.
23	That brings us to juror number 29, from the
24	Government.
25	MS. CHASE: Accept.

1	THE COURT: Defense.
2	MR. SCHUMACHER: I'm sorry, Judge, we have how many
3	peremptories left? I apologize.
4	THE COURT: You've used six peremptories.
5	MR. SCHUMACHER: Strike.
6	THE COURT: I am sorry?
7	MR. SCHUMACHER: Strike, Judge. I'm sorry.
8	THE COURT: That is your seventh peremptory. That
9	brings our jury to juror 31.
10	Turning to Defense for juror number 30.
11	MR. SCHUMACHER: Accept.
12	THE COURT: Government.
13	MS. CHASE: Accept.
14	THE COURT: That is our 11th juror. That brings us to
15	juror 31.
16	MS. CHASE: Strike.
17	THE COURT: That is the Government's third peremptory.
18	That brings us to number 32 for our first 12.
19	Defense, 32.
20	MR. SCHUMACHER: Strike.
21	THE COURT: That is Defense's eighth peremptory.
22	That brings our first 12 to juror number 33.
23	From the Government, 33.
24	MS. CHASE: Strike.
25	THE COURT: That is the Government's fourth

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1	peremptory. That brings our first 12 to 34.
2	Defense, 34.
3	
	MR. SCHUMACHER: Accept.
4	THE COURT: Government.
5	MS. CHASE: Accept.
6	THE COURT: 34 is our 12th juror. Those are our 12
7	jurors, and our first peremptory would be I am sorry, our
8	first alternate would be 36. So, we will try to get two
9	alternates. You get one extra peremptory, or at a minimum, get
10	one alternate.
11	Let me start with the Government, number 36 for your
12	first alternate.
13	MS. CHASE: Accept.
14	THE COURT: And from the Defense.
15	MR. SCHUMACHER: Accept, your Honor.
16	THE COURT: Okay, juror number 36 is our first
17	alternate.
18	And going to juror number 39, from the Defense as our
19	second alternate.
20	MR. SCHUMACHER: 39 we strike, your Honor.
21	THE COURT: That is the Defense's first and only
22	peremptory, and we go to 40. From the Government.
23	MS. CHASE: Strike.
24	THE COURT: So we have one alternate, and our
25	alternate is number 36.

1 Is the panel acceptable to the panel being jurors 2 number 1, 3, 4, 8, 15, 16, 18, 21, 26, 28, 30, and 34, with an alternate of 36. Is that acceptable to the Government? 3 4 MS. CHASE: Yes, your Honor. 5 THE COURT: Is that acceptable to the Defense? 6 MR. SCHUMACHER: May I have one moment, your Honor? 7 THE COURT: Yes. 8 MR. SCHUMACHER: 34 is our 12th juror? 9 THE COURT: 34 is our 12th juror and 36 is our first 10 alternate. 11 MR. SCHUMACHER: Yes, Judge, agreed. 12 THE COURT: Okay. All right. 13 What we will do is bring the jurors in, we will swear 14 them in, I will excuse the other jurors, and I will simply go 15 over the preliminary instructions with our jurors and we will 16 break for lunch. 17 MS. CHASE: Thank you, your Honor. 18 THE COURT: We can bring our jurors in. I will call 19 them in reverse order. 20 (Thereupon, the jury venire returned to the 21 courtroom). THE COURT: All right, you may be seated. As I call 22 23 your juror number, come forward and Melanie will show you where 24 to sit. 25 Juror number 36, juror number 34, juror number 30,

juror number 28, juror number 26, juror number 21, juror number 18, juror number 16. Make sure 18 is in front of 16. And then juror number 15, juror number 8, juror number 4, juror number 3, and juror number 1.

Melanie, if you would please swear in the jury. (Thereupon, the jury was duly sworn.)

THE COURT: Thank you, you may be seated.

For the rest of you, we want to thank you very much for your service thus far in participating in the voir dire process.

As you can see, you were not selected to be jurors. That does not mean that you did anything wrong. I trust each of you answered your questions truthfully and completely. Sometimes there is a good reason why you are not selected, and other times it could just be where you were actually seated on the seating chart, so to speak, and that is why perhaps you were not reached.

Regardless, your participation was integral to the ability for us to seat a jury to hear this case, so we want to thank you very much for your service. At this point you will be excused. You don't need to return to the courtroom for this case. You are relieved of your obligations to follow the rules that I have put in place that is to not discuss the case.

You may discuss the case if you choose to do so and may talk about your experience. Of course, you would not be

able to discuss it with anyone who has been seated to the extent you have befriended them because they will be under the same obligation not to discuss the case until the conclusion of the trial.

You must continue to call in, in case you are needed in another trial. You are no longer needed in this trial. So, thank you very much, you are excused.

(Thereupon, the jury venire left the courtroom.)

THE COURT: Okay, you may be seated.

Just a few more minutes, ladies and gentlemen, and we will break for lunch, I assure you.

Members of the jury, now that you have been sworn, I need to explain some basic principles about a criminal trial and your duty as jurors. These are preliminary instructions and at the end of the trial I will give you more detailed instructions.

It will be your duty to decide what happened so you can determine whether the Defendant is guilty or not guilty of the crimes charged in the indictment. At the end of the trial, I will explain the law that you must follow to reach your verdict. You must follow the law as I explain it to you even if you do not agree with the law.

You must decide the case solely on the evidence presented here in the courtroom. Evidence can come in many forms. It can be testimony about what someone saw, heard, or

smelled. It can be an exhibit admitted into evidence. It can be someone's opinion.

Some evidence proves a fact indirectly, such as a witness who saw wet grass outside and people walking into the courthouse carrying wet umbrellas. Indirect evidence, sometimes called circumstantial evidence, is simply a chain of circumstances that proves a fact. As far as the law is concerned, it makes no difference whether evidence is direct or indirect. You may choose to believe or disbelieve either kind and should give every piece of evidence whatever weight you think it deserves.

Certain things are not evidence and must not be construed -- and thus, must not be considered. I will list them for you now.

Statements and arguments of the lawyers. In their opening statements and closing arguments the lawyers will discuss the case, but their remarks are not evidence.

Questions and objections of the lawyers. The lawyers' questions are not evidence, only the witnesses' answers are evidence. You should not think something is true just because a lawyer's question suggests that it is. For instance, if a lawyer asks the witness, you saw the defendant hit his sister, didn't you, that question is no evidence whatsoever of what the witness saw or what the Defendant did unless the witness agrees with it.

There are rules of evidence that control what can be received into evidence. When a lawyer asks a question or offers an exhibit and a lawyer on the other side thinks that it is not permitted the rules of evidence, the lawyer may object. If I overrule the objection, then the question may be answered or the exhibit received. If I sustain the objection, then the question cannot be answered and the exhibit cannot be received.

Whenever I sustain an objection to a question, you must ignore the question and not try to guess what the answer would have been. Sometimes I may order that evidence be stricken and that you disregard or ignore the evidence. That means that when you are deciding the case, you must not consider that evidence.

Some evidence is admitted only for a limited purpose. When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and no other.

In reaching your verdict you may have to decide what testimony to believe and what testimony not to believe. You may believe everything a witness says or part of it or none of it. In considering the testimony of any witness you may take into account the opportunity and ability of the witness to see or hear or know the things testified to, the witness' memory, the witness' manner while testifying, the witness' interest in the outcome of the case, and any bias or prejudice, whether

other evidence contradicted the witness' testimony, the reasonableness of the witness' testimony in light of all the evidence, and other factors that bear on believability.

I will give you additional guidelines for determining credibility of witnesses at the end of the case.

As you know, this is a criminal case. There are three basic rules about a criminal case that you must keep in mind. First, the Defendant is presumed innocent until proven guilty. The indictment against the Defendant brought by the Government is only an accusation, nothing more. It is not proof of guilt or anything else. The Defendant, therefore, starts out with a clean slate.

Second, the burden of proof is on the Government until the very end of the case. The Defendant has no burden to prove his innocence or present any evidence or to testify. Since the Defendant has the right to remain silent and may choose whether to testify, you cannot legally put any weight on a Defendant's choice not to testify. It is not evidence.

Third, the Government must prove the Defendant's guilt beyond a reasonable doubt, and I will give you further instructions on this point later, but bear in mind that the level of proof required is high.

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room

to decide the case. Do not let note-taking distract you so that you do not hear other answers by witnesses. When you leave the courtroom your notes should be left in the jury room.

Whether or not you take notes, you should rely on your own memory of what was said. Notes are to assist your memory only. They are not entitled to any greater weight than your memory or impression about the testimony. Melanie will give you a notepad and pen or pencil when you return.

After lunch the trial will begin. First the

Government will make an opening statement, which is simply an
outline of the evidence as it comes in. Next, the Defense
attorney may, but does not have to, make an opening statement.

Opening statements are neither evidence nor argument. The
Government will then present its witnesses and counsel for the
Defendant may cross-examine them.

Following the Government's case, the Defendant may, if he wishes, present witnesses whom the Government may cross-examine. After all the evidence is in, the attorneys will present their closing arguments to summarize and interpret the evidence before you, and I will instruct you on the law. After that, you will go to the jury room to decide your verdict.

When you break for lunch, remember the important instructions I have given to you. You can go to lunch with each other, you can talk about anything you would like other

than anything related to the case. You are not to discuss your observations, your thoughts, your impressions thus far with each other or with anyone else with whom you may communicate over the lunch hour, and that rule will stay in place until the end of the trial.

If you see any of the parties, Defense counsel, or Government counsel in the hallway or elevator, please know they are not to communicate with you. They are not even to say hello. They might get off the elevator if you get on with them. They are not being rude, they are just trying to avoid any improper or appearance of improper contact with you, so it would help if you avoid any contact with them, even if it is just an innocent hello.

I know everybody has electronic devices. We are not taking them away from you. We will do so when you deliberate, but the same instructions about not communicating apply for your electronic communications, your social media communications. It is fine to let friends, family members, and employers know you have been selected as a juror here in Federal Court and it will go through the duration of the week, and you will keep them posted. That you are allowed to do, but nothing more.

Some people might say, is it interesting, what is it about? At that point you tell them the judge is not permitting us to talk to anybody about it. When the trial is over, we can

1 discuss it if I choose to do so. 2 It is one o'clock. We will have you back at 3 2:00 o'clock. Melanie will escort you out and show you where to meet. We will resume at 2:00 o'clock with opening 4 5 statements and the presentation of evidence. Thank you. (Thereupon, the jury leaves the courtroom.) 6 THE COURT: Okay, we will see everybody back at 7 8 2:00 o'clock. 9 Your Honor, when the Government is MS. CHASE: 10 presenting evidence, the entirety of our evidence, aside from 11 physical evidence, will be through the computer and the 12 monitors. I don't know if the Court has a way -- I am 13 assisting Ms. Darsch during her witnesses, but we are showing a 14 photo for the witness to authenticate before publishing to the 15 jury. 16 THE COURT: We have a way where it doesn't show the 17 jury. When you put it on, just say we are showing it to the 18 witness only, not for publication, so we know to press that 19 button. Once it is admitted, we can press a different button. 20 MS. CHASE: Super. Thank you so much. THE COURT: 21 Have a good lunch. We will see everybody 22 back at 2:00. 23 (Thereupon, a luncheon recess was taken.) 24 MS. CHASE: Your Honor, while we are waiting, one of

our witnesses asked if she could bring a water bottle in.

1 Yes, that is fine. THE COURT: 2 (Thereupon, the jury returned to the courtroom.) THE COURT: Welcome back, ladies and gentlemen, you 3 may be seated. 4 5 At this time I will turn it over to the Government for any opening statement that you would like to make. 6 7 MS. DARSCH: Good afternoon. This case is about guns 8 and drugs, it is about the Defendant, Willie Boone, selling 9 drugs out of a drug house in West Palm Beach. That drug house 10 was supplied with different types of drugs and firearms, 11 including a machinegun. Throughout the course of this trial 12 you will hear the following evidence from different witnesses. 13 On March 3, 2022, law enforcement executed a search 14 warrant at 621 52nd Street in West Palm Beach, Florida. 15 same day, prior to executing that search warrant, law 16 enforcement conducted pre-warrant surveillance. Law enforcement observed an individual identified as Kevin Gibson, 17 18 who goes by KG, engaging in hand-to-hand narcotics 19 transactions. 20 Immediately prior to executing that search warrant law 21 enforcement detained the Defendant, Mr. Boone, outside the 22 residence, inside a white fenced in area. In close proximity 23 to Mr. Boone was United States currency scattered on the ground 24 outside the residence in different denominations.

Inside the residence, which was a one-bedroom, one

bathroom efficiency, was a table, and on that table there were firearms, narcotics, and a digital scale and a razor blade.

The firearms that were on that table was a Glock pistol and a Springfield Armory pistol.

The Glock pistol had an external mechanism on it that is commonly referred to on the streets as a switch. That switch converted the Glock pistol into a fully automatic machinegun. That fully automatic machinegun was loaded with one round in the chamber and it had attached to it an extended magazine with an additional 24 rounds.

Right next to that Glock on that table was a Springfield Armory pistol also loaded with one round in the chamber and had attached to it a magazine with an additional seven rounds. On that same table as those two firearms there were capsules. Those capsules field tested positive for fentanyl, and a lab confirmed the substance to be N-pyrrolidino etonitazene, which is a controlled substance.

On that same table as the firearms and the capsules was a white hard rock-like substance that field tested positive for crack cocaine, and which a determined to be cocaine, another controlled substance. On that same table as the capsules and the crack cocaine and the firearms was a digital scale, a razor blade and U.S. currency.

In that same room as the firearms and the drugs on the table was a self that had more drugs. It had a bag with

multi-colored pressed pills that field tested positive for MDMA, which is methylenedioxymethamphetamine, and which a lab confirmed to be butylone, which is also a controlled substance.

Right next to that table was a recliner with two cell phones, and extracted from those cell phones showed images, videos and text messages. There were numerous images of Mr. Boone on that cell phone. There were videos of Mr. Boone on the cell phone, including one labeled selfie, and there were messages to the user of the cell phone identifying the user of the cell phone as Mr. Boone, and also messages from the user of the cell phone identifying himself as Willie Boone, confirming his date of birth, calling himself Little Will or Will.

There was also banking information associated with Mr. Boone, gmail account addresses by wboone@gmail, and also billbopopup@gmail. There were various messages where Mr. Boone was communicating with other individuals that went by KG Cuh, Uncle Butterball, Nicole, AJ Brother D, Jeff Bud, JB, and other individuals on that cell phone.

Those messages involved Mr. Boone distributing drugs, drugs that went by different names in the messages, such as H, Feti, Caps, Molly, Beans, Hard, Vick. You will hear from an expert that these are street term names for butylone, cocaine, fentanyl and MDMA.

There are other messages from Uncle Butterball to Willie Boone stating: Stop serving at the front, law

enforcement is watching -- this is as we were getting close to the date of the search warrant -- put a lock on the gate, and Uncle Butterball requires a mandatory meeting on 52nd.

Uncle Butterball had also sent previous messages about sending glaze, which are drug transactions, and also there are messages from Nicole where she indicates that the drugs she bought from Mr. Boone, it is not all feti, it is real H, just heroin, and she explains how we can make the product better for the next time and she rates it on a scale of one to ten and how to cut it.

There's also messages from Willie Boone to KG Cuh on the day the search warrant was executed asking: Where do you put the caps, Cuh? And there are also other messages that state that the tools are in the oven. You will hear from an expert that "tools" means firearms.

And there is another message from big smakka kreep, who sends a message to Willie Boone stating: Lemme buy two switches, and Mr. Boone responds: Only got two right now. And there is a video extracted from the cell phone where Mr. Boone is recording himself with a Glock switch, a very unique Glock switch that has unique characteristics on it, and the he puts that Glock switch down next to the second Glock switch.

There is also another image on the phone of a Glock switch on a table next to capsules and crack cocaine and U.S. currency. An expert will testify that that Glock switch in

that image is the same Glock switch that was recovered from the residence, and also DNA extracted from the Glock pistol and the Springfield Armory pistol contains the DNA of Mr. Boone.

Now, Mr. Boone is not allowed to possess a firearm because he is a convicted felon, and even if he were allowed to possess a firearm, you cannot have a machinegun that is unregistered, and this machinegun was not registered.

So, why does this matter? Because the United States has charged Mr. Boone with agreeing with others to distribute narcotics, to possessing narcotics, and intending to distribute them, to carrying firearms in furtherance of his drug activities, to being a felon in possession of firearms, and tho having a machinegun that is not registered.

And that is why when we have the opportunity to speak again I will ask you to return the only verdict that the evidence supports, and that is guilty on all five counts of the indictment.

Thank you.

THE COURT: Okay. And from the Defense.

MR. SCHUMACHER: May it please the Court.

Ladies and gentlemen, when you ultimately retire to do your deliberations you will be given a copy of the third superseding indictment. It is going to give you some facts, and let's talk about those facts for just a second.

One of the things that it is going to allege in Count

1 in particular is that there was a conspiracy to possess with intent to distribute varying controlled substances, starting in January of 2022, and leading up to the search warrant execution and Mr. Boone being accosted by police officers and voluntarily giving his DNA on that date. That was March 3rd, by the way, 2022. Three months, three months.

And you will hear periodically during the course of that, the reason why the Government alleges that there was this conspiracy to possess with the intent to distribute narcotics id because they are watching him, they are investigating, they are gaining information. They are making controlled buys, and you are going to hear the controlled buys were done by something called a confidential informant, CI.

A confidential informant is somebody that usually has been proven reliable to law enforcement to go in and do these kind of deals, somebody that can be trusted by the people that are selling the narcotics. They are given money by law enforcement and then they go in and make the buy and bring the narcotics back. You will hear testimony that that occurred plenty of times during the course of those three months.

What you are not going to hear, not one time, is somebody saying, I saw Willie Boone transferring in what they call a hand-to-hand with anybody. This is during multiple periods of surveillance on this same location at 621 52nd Street.

So, law enforcement knew about it, and they knew some other very disturbing things about what is going on. First of all, this is a crime-ridden area, this is an area where you will hear that there were regularly prostitutes, drug dealers and vagrants. Okay. And this was a stash house, the location we are talking about, that was open many times to anybody that wanted to deal narcotics.

In fact, you will hear from at least one detective, maybe more, that they saw a multitude of people selling narcotics out of this particular location. Did a confidential informant buy from Mr. Boone one time in three months? I think the testimony is going to be that that never occurred.

So, you've got multiple buy — these are also referred to as buy walks, meaning that a person walks up to the person that they want to try to engage in a drug deal, they make the transaction, the hand-to-hand transaction, and then they walk off.

What you're also going to hear is that law enforcement, including West Palm Beach Police Department who had kind of originated this investigation, they were recording the conversations by and between their confidential source and the person to whom they were actually handing over the narcotics.

You know the number of times you are going to hear somebody come in and identify that voice on the other end of

that conversation as being Willie Boone? Zero. You won't hear his voice, you won't hear anybody identify his voice.

You will also hear, disturbingly, that part of the reason why law enforcement went into this drug stash house is because they were worried because they were given information that Mr. Gibson, Kevin Gibson — you already his name from the Government — that Kevin Gibson was carrying and possessing a Glock with a Glock switch on it to make it fully automatic. They knew that information and that is part of the reason why they effectuated this investigation and why they ultimately timed the execution of the search warrant when they did.

Now, on the day that the search warrant occurred, that is the first time that law enforcement appears to notice my client at the location. He is there with another gentleman, Roger, Roger Gulson I believe is his last name, and they are standing out by the gate. Is Willie Boone in possession of controlled substances? They stop him, he gets down on the ground and they frisk him. What do they find? A drug dealer. No drugs, no cash on his person.

Most importantly, the Glock with the switch is not on his person. Where is it? It's many feet away inside the back house, because there are two structures on this particular property. Everything that you are going to hear is going on in the back efficiency and that is where the Glock with the switch making it fully automatic was.

So, the Government has to answer for you -- has to answer to you: What drug dealer leaves his Glock with a switch attached to it other than on his person? Why does a drug dealer have zero narcotics on his person?

Narcotics is the life blood of drug dealers. There's only one thing more important to a drug dealer than their narcotics, and that is their cell phones. What you are going to hear, ladies and gentlemen, is that right after the police take down Mr. Boone and the other individual, they go into the location because they have a search warrant, and what do they see? Not one, but two cell phones sitting on furniture in that particular location.

You are going to hear the agents tell you as they are collecting evidence the phone is blowing up. The phone is blowing off the hook with calls. It's presumably from people who want to purchase narcotics, and yet the evidence will show that Mr. Boone — the Government is going to say it is his phone, it's his gun. He is in possession and controlling neither of those things.

Now, there is DNA evidence, and DNA evidence has a certain mystique. You are right, there is a mystique to it, but there are some things that are surprising also about DNA.

There are things called trace evidence, fingerprints, DNA. Well, in the case of a fingerprint, you will hear an expert come in and say this is an identity, we are making a

comparison between an unknown and a person that is known to us and they are one in the same.

With DNA, that is not done. You are not going to hear anybody come in and say that the DNA on the gun is Willie Boone's. What they are going to tell you, and this is the first surprise, is that there is a probability it is Mr. Boone's, and I agree, it is a very large number. So, the first thing is, again, there is no identical match.

The other thing that you are going to hear, and the second surprise about DNA, it that it is particularly difficult and its efficacy or its efficiency is far reduced when there are contributing sources of that DNA.

Well, I think what the evidence is going to show you is that Palm Beach Sheriff's Office, who did the DNA analysis, is going to come in and say to you they swabbed the Glock, they swabbed the trigger, they swabbed the slide, they swabbed magazine, even the bullets, and what they are going to tell you is that there is a contributory source of at least two sources of DNA.

Now, I submit to you on cross-examination they may very well admit that there are multiple sources of DNA, not just two, so that gets to the second surprise about DNA. In combination form its efficiency is far reduced.

The third thing that will be a surprise to you, unlike a fingerprint -- a fingerprint is a transfer of chemicals, of

oils, of water, cells transferring from here to this computer screen for instance, by way of an example. DNA is a little different. DNA can be in different values or different strengths of DNA.

One of the things that can happen is something called a secondary transfer. For instance, I go to shake Willie Boone's hand and Willie touches something thereafter. It is possible that my skin cells have transferred by shaking his hand and now touching, for instance, a gun.

So, again, unlike other trace evidence, DNA is not exact because there is this possibility of a secondary transfer. But is that much ado about nothing? Is that just a smoke screen?

Ladies and gentlemen, the Government in this case is tasked with proving to you beyond a reasonable doubt that Mr. Boone possessed, knowingly possessed that firearm during the course of a drug trafficking offense. Can they do that? Is there one witness that is going to come in and say he had that gun on him when he was selling drugs? No, not one, not one witness.

There is no -- the evidence will also show that they are DNA scientists, can't say when that DNA was deposited. Was it a week ago? Was it ten days ago? Was it today? Was it an hour ago? The evidence, that DNA process, does not allow them to tell you that.

So, in terms of the Government being able to tell you when or if Willie Boone touched that firearm, assuming you think that secondary transfer sounds a little hokey, they still have to show to you that it was possessed in furtherance of drug trafficking, and that may be hard because when Mr. Boone was encountered by law enforcement he didn't have a gun, he didn't have any drugs on him.

They are sitting back in the house, and by the way, I don't think the Government is going to be able to prove to you — they knew that KG, or Kevin Gibson, was selling out of that house, they made numerous transactional buy walks, but I don't think they are going to be able to tell you that he was in the house and exited through the back location.

A gun belonging to Kevin Gibson was found inside there. Law enforcement believed that he was the person possessing that firearm.

Nor is there testimony that will be introduced as to when that Glock was made automatic. Does the Government have one witness? Maybe a compatriot of what they claim Mr. Boone was doing, one person, either a buyer or a seller, that can come in and say to you, yes, I saw him carrying that gun when I picked up narcotics. That would be nice, but that isn't the test.

Please, the evidence is incendiary, it is inflammatory. Nobody wants a armed drug dealer walking the

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They certainly don't want him walking the streets streets. with an automatic weapon, but look at the evidence. Don't be caught up with the notion there is DNA on the gun. At the end of this case, I will stand before you and I will ask you to discharge your sworn duty, which is to not rely upon the incendiary notion of what has been alleged, but to say, has the Government proven this case beyond a reasonable doubt? And for each of these five counts I am going to say to you in advance that they will not, and I ask you to return a verdict of not guilty as to Counts 1 through 5. Thank you, Judge. THE COURT: Okay, thank you. The Government can call your first witness. The Government calls Detective Raphael MS. DARSCH: Chaves. Judge, I will invoke the Rule. MR. SCHUMACHER: THE COURT: You are invoking the Rule? MR. SCHUMACHER: Yes, your Honor. THE COURT: Counsel, make sure that none of the

THE COURT: Counsel, make sure that none of the witnesses are in the courtroom until they testify, and that the witnesses who testify, instruct them not to discuss their testimony with anyone who is testifying subsequently. The Rule is invoked.

RAPHAEL CHAVES, GOVERNMENT'S WITNESS, SWORN

THE COURTROOM DEPUTY: Have a seat, and if you'd speak

right into that microphone and state your full name for the record and spell your last name for the Court Reporter, please.

THE WITNESS: Raphael Chaves, C-H-A-V-E-S.

## DIRECT EXAMINATION

## BY MS. DARSCH:

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- Q. Good afternoon, Detective Chaves. Would you please tell the jury, what is your job title?
- 8 A. I work for the West Palm Beach Police Department, I am a detective.
  - THE COURT: I am sorry, can we have you get close to the microphone like that and speak right into the microphone.
- 12 BY MS. DARSCH:
- Q. As a detective with the West Palm Beach Police Department,
  do you focus on certain investigations?
- 15 | A. Yes, I do.
- 16 | Q. What are those investigations?
- 17 A. Mostly narcotics and firearms as well.
- 18 Q. How long have you been employed as a an officer with the
- 19 | West Palm Beach Police Department?
- 20 A. March of this year coming up will be my 11th year. So, ten
- 21 years.
- 22 | Q. How long have you been a detective in the narcotics
- 23 | section?
- 24 A. Approximately six years.
- 25 | Q. About how many types of narcotics cases have you

1 | investigated since being in the narcotics units?

- A. I would say, between myself riding or participating with other detectives and agents, close to a hundred.
- Q. Okay. I want to back up some. In terms of the type of
- training you received prior to being a detective, did you go to the Florida Police Academy?
- 7 A. Yes, I did.

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- 8 Q. After the Police Academy and prior to becoming a detective
- 9 and being assigned to the narcotics unit, were you exposed to
- 10 | narcotic activity?
- 11 | A. Yes, I was.
- 12 | Q. How so?
- 13 A. When I was on road patrol I rode the north end of the city
- 14 | for the most part and I was exposed to -- they have the most
- 15 | violent crimes and open air narcotic sales, so from day one,
- 16 since FTO, I was in -- maybe my first work at work I was
- 17 | already involved in narcotics, so from day one.
- 18 Q. Okay. And you mentioned road patrol. After road patrol,
- 19 | where did you move to next?
- 20 A. After a few years, maybe four years on road patrol, I was
- 21 moved to a neighborhood enhancement team. It was focused
- 22 | mostly on open air sales on corners, alleyways, any violent
- 23 crimes that could happen, like just happened, so we were always
- 24 || riding, looking to suppress that kind of activity.
- 25 | Q. Did this include street-level investigations?

- 1 A. Yes, street-level investigations.
- 2 | Q. And after being in road patrol and moving to the narcotics,
- 3 street-level investigations, were you then transferred to a
- 4 | specialized unit?
- 5 | A. Yes.
- 6 Q. And what do you do there?
- 7 A. Soon after there, I went to the criminal apprehension team,
- 8 | which was similar to the assignment I had before, but this time
- 9 we were working with confidential informants, house buys,
- 10 purchasing narcotics from drug houses, and writing search
- 11 warrants and so on and so forth.
- 12 | Q. Now I want to talk about your involvement in this case.
- 13 | Turning your attention to March 3, 2022, were you on duty that
- 14 | day?
- 15 A. Yes.
- 16 | Q. Did you and other agents execute a search warrant at 621
- 17 | 52nd Street, Building 2 in West Palm Beach, Florida 33407?
- 18 A. Yes, we did.
- 19 Q. Could you please describe what kind of residence this is?
- 20 A. It's a one-story house, and if you're facing the residence,
- 21 | there is a bigger house. There's a small fence that separates
- 22 | the house in the back, like a cottage, one bedroom, one bath,
- 23 and there is a fence that blocks access to the back house.
- 24 | Q. This cottage, was it like an efficiency?
- 25 A. Yes, an efficiency.

- 1 | Q. That is where you executed the search warrant?
- 2 | A. Yes.
- 3 Q. Is that address in Palm Beach County?
- 4 | A. Yes.
- 5 Q. Is it in the Southern District of Florida?
- 6 A. Yes.
- 7 | Q. The hour, approximately, prior to executing the search
- 8 | warrant at the residence, can we refer to that efficiency as
- 9 Building 2?
- 10 | A. Yes.
- 11 | Q. At Building 2 did you conduct pre-warrant surveillance at
- 12 | the efficiency on March 3, 2022?
- 13 | A. Yes, I did.
- 14 | Q. What did you observe during pre-warrant surveillance?
- 15 A. I was trying to establish a pattern to see if the house was
- 16 what we thought it was, drug sales and all. I saw people
- 17 | coming in on bicycles, homeless people coming in and out,
- 18 | hand-to-hand transactions in the front yard, people coming in
- 19 | from the back behind the fence, just normal drug activity,
- 20 | hand-to-hand street narcotic sales.
- 21 | Q. Regarding the hand-to-hand transactions, were you able to
- 22 | identify any individual?
- 23 A. One, yes.
- 24 | Q. How did you identify this individual?
- 25 A. I knew this one individual from before, his name was Kevin

- 1 Gibson.
- 2 | Q. Does Kevin Gibson have any aliases?
- 3 A. Yes. I knew him as KG, and close to the incident I
- 4 received information that he was always being called as Mike.
- 5 Q. Now turning your attention to the execution of the search
- 6 warrant, immediately prior to executing a search warrant did
- 7 | you encounter any individual?
- 8 A. Immediately prior --
- 9 | Q. Immediately prior to executing the search warrant, while
- 10 you were on scene, did you encounter an individual?
- 11 | A. Yes, I do.
- 12 Q. Who?
- 13 A. Mr. Boone.
- 14 | Q. Where did you encounter him?
- 15 A. Once we had the warrant, he was behind the fence that
- 16 | blocks access to the efficiency, Building 2.
- 17 | Q. Did you say he was behind the fence?
- 18 A. Yes.
- 19 Q. Did you detain that individual?
- 20 | A. Yes, I did.
- 21 | Q. Do you see that individual in court today?
- 22 A. Yes, I do.
- 23 | Q. Can you please point him out and describe an article of
- 24 | clothing he is wearing?
- 25 | A. He's sitting over there in the blue button down shirt.

1 MR. SCHUMACHER: Stipulate to an in-court ID.

THE COURT: The record will reflect the witness has identified the Defendant.

BY MS. DARSCH:

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- Q. After detaining Mr. Boone, at some point did you ultimately
  execute the search warrant on 52nd Street on March 3rd?
- 7 A. Yes, I did.
- Q. When the residence was turned over to you for execution of
- 9 | the search warrant, who detained Mr. Boone?
- 10 A. Once I walked him out of the house, Officer Beesley was
- 11 | outside, so I asked him to stay him.
- 12 | Q. What were you searching the residence for?
- 13 A. Narcotics and firearms.
- 14 | Q. Okay. We will get back to that later.
- Prior to searching the residence for narcotics and firearms, did you also conduct a walk-through of the residence?
- 17 A. The crime scene investigator did with her camera and I
- 18 | followed her.
- 19 Q. You were present during the walk-through?
- 20 | A. Yes, I was.
- 21 | Q. Who was the crime seen investigator?
- 22 A. Aisha Eckroth.
- 23 | Q. Did you say the walk-through was recorded by Aisha Eckroth?
- 24 | A. Yes.
- 25 MS. DARSCH: May I approach the witness, your Honor?

1 THE COURT: You may. 2 BY MS. DARSCH: 3 I am showing you what has been marked for identification as 4 Government Exhibit 1. Do you recognize it? 5 Α. Yes, I do. 6 What is it? 7 A. This is a copy of the walk-through video and there is my 8 initials on it. 9 Q. Prior to coming into court today, did the Government 10 request that you review it in its entirety at the United States 11 Attorney's Office? 12 A. Yes. 13 Did you? Q. 14 A. Yes, I did. 15 Q. Does the video fairly and accurately depict the 16 walk-through of the residence prior to the search? 17 A. Yes, it does. 18 MS. DARSCH: Your Honor, at this time the Government 19 moves into evidence Government Exhibit 1. 20 MR. SCHUMACHER: No objection, your Honor. 21 THE COURT: Exhibit 1 is admitted without objection. 22 (Whereupon Government Exhibit 1 was marked for evidence.) 23 MS. DARSCH: Permission to publish to the jury, your 24 Honor.

You may.

THE COURT:

1 THE COURTROOM DEPUTY: Are we publishing? 2 THE COURT: Yes, we are playing the video. 3 MS. DARSCH: Let the record reflect that we are starting the video. 4 5 (Thereupon, the video marked Exhibit 1 was played.) 6 Stopping the video at .34 seconds. 7 BY MS. DARSCH: 8 Q. You mentioned earlier where you came into contact with the 9 Defendant, Mr. Boone. Can you point to where you first came 10 into contact with this Defendant in the video? 11 A. Yes. Once I opened this door with the white fence, he was 12 somewhere around here. Right there. (Indicating.) 13 Q. He was behind that white fence? 14 A. Yes. 15 Q. Could you please point to where you executed the search 16 warrant? 17 This beige efficiency right here in the back. Α. 18 What was Mr. Boone doing when you first came into contact with him? 19 20 He was laying down right here on the floor, face down with 21 his arms thrown out. 22 Q. Starting the video. 23 (Thereupon, the video marked Exhibit 1 continued playing.) 24 Just to clarify, could you point out now where the search 25 warrant was executed?

1 It was executed on this building right here. (Indicating.) Α. 2 Q. Thank you. Starting the video. 3 (Thereupon, the video marked Exhibit 1 continued playing.) 4 Stopping the video at 1.34 seconds. Q. 5 Detective Chaves, what do you see here? U.S. currency of various denominations, \$50, \$20, \$100 6 7 bills. 8 Did you collect that at the crime scene? Q. 9 The agent did. Α. No. Crime Scene Investigator Agent Eckroth? 10 11 Α. Yes. 12 Thank you. Resuming the video at 1.34 seconds. Q. 13 (Thereupon, the video marked Exhibit 1 continued playing.) 14 Stopping the video at two minutes 44 seconds. Q. 15 What do you see here? 16 It is the front door to gain access to the efficiency, and 17 that's the view you have once you open the door and look into 18 the living room area. You see a table and some plastic bags 19 and a piece of -- I am not sure if it is a recliner or an 20 ottoman, a piece of furniture. 21 Q. Resuming the video. 22 (Thereupon, the video marked Exhibit 1 continued playing.) 23 Stopping the video at two minutes 44 seconds. 24 What do you see here?

It's clear plastic bags smashed in, stuck between the

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Α.

1 | cushion.

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2 Q. Starting the video.

(Thereupon, the video marked Exhibit 1 continued playing.)

Q. Stopping the video at three minutes 32 seconds.

What are we looking at here?

- A. Two cell phones, one is facing up and one is facing down.
- 7 | Q. Did you seize those cell phones?
- 8 A. No. CSI Agent Eckroth did.
- 9 Q. Starting the video.
- 10 | (Thereupon, the video marked Exhibit 1 continued playing.)
- 11 | Q. Stopping the video at three minutes and 42 seconds.
- 12 What do you see here?
- 13 | A. That is the table, you can it see from the outside. This
- 14 | is a small scale right here, some capsules, a little piece of
- 15 | crack right here, a marijuana blunt, and some marijuana here in
- 16 | this little baggie. And there is I would say a cup, but there
- 17 | is a firearm here. I don't know if you can see it in the
- 18 picture, there's a firearm. At this angle, there's one more
- 19 | right here. (Indicating.)
- 20 | Q. Was there also a razor blade on that table?
- 21 MR. SCHUMACHER: Objection, leading.
- 22 THE COURT: Rephrase.
- 23 BY MS. DARSCH

- Q. Is there anything else on that table?
- 25 | A. From this angle, I can't see -- my eyes are not too great.

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         I will get back to it later in a different question.
 2
         Starting the video.
          (Thereupon, the video marked Exhibit 1 continued playing.)
 3
 4
         Stopping the video at three minutes 48 seconds.
 5
         What are you looking at here?
 6
         Those are capsules, there is some white powder in it.
     A.
 7
         How many capsules are there?
     0.
 8
     Α.
         11.
 9
     Q.
         Starting the video.
10
         (Thereupon, the video marked Exhibit 1 continued playing.)
11
         Stopping the video at three minutes 54 seconds,
12
         What do you see here?
13
         I see a razor blade and receipt, I believe this is an iPad
     Α.
14
     or some type of iTouch electronic.
15
         Starting the video.
     Q.
16
         (Thereupon, the video marked Exhibit 1 continued playing.)
17
         Stopping the video at four minutes.
18
         What do you see here?
19
         This is the bag with suspected marijuana.
     Α.
20
        Starting the video.
     Q.
21
         (Thereupon, the video marked Exhibit 1 continued playing.)
22
         Here, what do you see here?
23
     A. U.S. currency right here, this is a pistol with an extended
24
     magazine, and there is one more pistol here with a normal size
25
     magazine, the original size.
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1 Starting the video. Q. 2 (Thereupon, the video marked Exhibit 1 continued playing.) Stopping the video at four minutes, 11 seconds. 3 4 What do you see here? 5 It is a closeup of the firearm and you can see this one Α. 6 specific right here. (Indicating.) 7 For me, I actually have one of these firearms, there is a 8 manufactured piece right there that you wouldn't find on an 9 original Glock. 10 Q. That is an external mechanism? 11 MR. SCHUMACHER: Objection, leading, outside the scope of this --12 13 THE COURT: You have to speak clearly into the 14 microphone so we can hear your objection. 15 MR. SCHUMACHER: Yes, Judge. I am objecting, this 16 witness -- it is beyond the scope, and there is no foundation 17 for this. He has not been offered as an expert, your Honor, 18 and there is a leading question as well. 19 THE COURT: Okay. Can you rephrase the question. 20 BY MS. DARSCH: 21 What do you see here in this picture? 22 I see the firearm and a piece I don't recognize on the 23 original Glock. 24 Q. Starting the video. 25 (Thereupon, the video marked Exhibit 1 continued playing.)

1		Now what are we looking at here?
2	A.	We are looking at both firearms now.
3	Q.	Starting the video.
4		(Thereupon, the video marked Exhibit 1 continued playing.)
5		Stopping the video at four minutes 36 seconds.
6		What is this that we are looking at?
7	A.	This is the second firearm without the extended magazine.
8	Q.	Is this on the same table?
9	A.	Yes, right next to the other one.
10	Q.	Starting the video.
11		(Thereupon, the video marked Exhibit 1 continued playing.)
12		Stopping the video at five minutes 16 seconds,
13		What are we looking at here?
14	A.	That is the serial number for one of the firearms.
15	Q.	Starting the video.
16		(Thereupon, the video marked Exhibit 1 continued playing.)
17		Stopping the video at five minutes 39 seconds.
18		What does this now show?
19	A.	The serial number for the one with the extended magazine.
20	Q.	Starting the video.
21		(Thereupon, the video marked Exhibit 1 continued playing.)
22		Stopping the video at five minutes 46 seconds.
23		What are we looking at here?
24	A.	We are looking at the same table. Next to the firearms was
25	the	razor, a small digital scale, and you can see the capsules

1 on this corner. 2 Did you seize the 11 capsules? 3 Yes, I did. Α. 4 Resuming the video. Q. 5 (Thereupon, the video marked Exhibit 1 continued playing.) 6 Stopping the video at five minutes and 50 seconds. 7 What are we looking at here? 8 The recliner facing the small table, two cell phones, a 9 small bag on the floor. 10 Are these the same two cell phones we saw earlier? 11 Α. Yes. 12 Starting the video. Q. 13 (Thereupon, the video marked Exhibit 1 continued playing.) 14 Stopping the video at six minutes 12 seconds. 15 What do you notice about these cell phones? 16 One is facing up, one is facing down. The one facing up is 17 a Samsung. 18 Q. Starting the video. 19 (Thereupon, the video marked Exhibit 1 continued playing.) 20 Stopping the video at six minutes and 19 seconds, 21 Could you please describe what we are looking at here? 22 The second cell phone facing up, light blue cover to it and 23 the screen protector. 24 Q. Starting the video.

(Thereupon, the video marked Exhibit 1 continued playing.)

1 Stopping the video at six minutes 33 seconds, 2 What do you see here? 3 A. This is a small cabinet on the walk. You see a small 4 bottle right here, and there's a plastic bag on top, and some 5 other hygiene items on the bottom. Referring to that bag, did you collect that bag? 6 7 Yes, I did. Α. 8 Q. Starting the video. 9 (Thereupon, the video marked Exhibit 1 continued playing.) 10 MS. DARSCH: Let the record reflect that is the video 11 in its entirety. 12 THE COURT: The record so reflects. 13 BY MS. DARSCH: 14 Q. I am now showing you what has been marked for 15 identification as Government Exhibit 2. 16 MRS. CHASE: Not publish it to the jury. 17 THE COURTROOM DEPUTY: It should be off for the jury 18 and on for the witness. 19 THE COURT: Is it on your screen or not? 20 THE WITNESS: Yes, it is. 21 THE COURT: You can ask any question you have of the 22 witness. 23 BY MS. DARSCH: 24 Q. I am now showing you Government Exhibit 2 for 25 identification purposes only. Do you recognize this photo?

1 | A. Yes, I do.

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- Q. What is Government Exhibit 2?
- 3 A. It is a screen shot of the two residence, 621 A, which is a
- 4 bigger house, and if you look to the left, it shows you the
- 5 white fence and the building number 2 in the back that we just
- 6 watched the video.
  - Q. Does it fairly and accurately depict the efficiency?
  - A. Yes.
- 9 MS. DARSCH: Your Honor, we move this photograph into
- 10 | evidence, Government Exhibit 2.
- 11 MR. SCHUMACHER: Without objection, your Honor.
- 12 THE COURT: It is admitted without objection.
- (Whereupon Government Exhibit 2 was marked for evidence.)
- MS. DARSCH: Your Honor, may I publish to the jury?
- THE COURT: You may publish.
- 16 BY MS. DARSCH:
  - Q. Now that the jury sees Exhibit 2, could you please explain
- 18 | what we are looking at?
- 19 A. This is the front house right here, grayish in color, and
- 20 | the fence I referred to previously with the door open. You can
- 21 see building number 2 in the back, beige color, salmon color,
- 22 | and you can also see the mailboxes here for both places.
- 23 Q. I am now showing you for identification purposes only
- 24 Government Exhibit 2-A.
- 25 Do you recognize this photo?

- A. Yes. It's a closeup of the fence with the door wide open, and you can have a better look of building number 2 in the back.
  - Q. Does it fairly and accurately depict what you described?
- 5 | A. Yes.

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- MS. DARSCH: Your Honor, we offer this photo into evidence as Government Exhibit 2-A.
  - MR. SCHUMACHER: Without objection, your Honor.
- 9 THE COURT: 2-A is admitted without objection.
- 10 (Whereupon Government Exhibit 2-A was marked for evidence.)
- 11 MS. DARSCH: Permission to publish to the jury.
- 12 THE COURT: You may publish.
- 13 BY MS. DARSCH:
- 14 Q. Could you please point to the efficiency?
- 15 A. Right here. (Indicating.)
- Q. I am now showing you for identification purposes -- let me back up one moment.
- 18 Where was Mr. Boone detained?
- A. When I opened this gate right here, he was somewhere right here laying down.
- Q. I am now showing you for identification purposes only
  Government Exhibit 3.
- 23 Do you recognize this photo?
- 24 A. Yes, I do.
- 25 Q. What is it?

- 1 A. It shows both mailboxes for 621-A and 621-B, which is
- 2 | building number 2.
- 3 Q. Was 621-B the efficiency?
- 4 A. Yes.
- 5 | Q. Does it fairly and accurately depict the mailbox for
- 6 Building 2, what we are calling Building 2?
- 7 | A. Yes.
- 8 MS. DARSCH: Your Honor, I move this into evidence,
- 9 Government Exhibit 3.
- 10 MR. SCHUMACHER: No objection, your Honor.
- 11 THE COURT: Government Exhibit 3 is admitted without 12 objection. You can publish to the jury.
- (Whereupon Government Exhibit 3 was marked for evidence.)
- 14 BY MS. DARSCH:
- 15 | Q. Can you please, now that the jury can see this photograph,
- 16 explain which mailbox belongs to the efficiency?
- 17 | A. The white in color one here.
- 18 Q. So we can refer to this as Building 2?
- 19 A. Yes.
- 20 | Q. I am now showing you for identification purposes only
- 21 Government Exhibit 4.
- 22 Do you recognize it?
- 23 | A. Yes, I do.
- 24 | Q. What is it?
- 25 A. It's the same building on the left of the picture. On the

1 right of the picture is where the U.S. currency was located. 2 Q. Does it fairly and accurately depict that which you described? 3 Yes. 4 Α. 5 MS. DARSCH: I move in evidence Government Exhibit 4. THE COURT: Any objection? 6 7 MR. SCHUMACHER: No, your Honor. 8 THE COURT: 4 is admitted without objection. I am wondering whether the remainder of the 9 10 photographs through 12 have been shown to the Defense, and if 11 there is no objection, it might speed things along a little 12 bit. 13 Maybe go up to a certain point so it gets us to the 14 next break. It wasn't intended to slow us down. We were at 15 Government 4. Did you move --16 MR. SCHUMACHER: I did, Judge, there was no objection. 17 THE COURT: Government Exhibit 4 is admitted into 18 evidence. If there are any others you have agreed to, you can 19 state it on the record. 20 MS. DARSCH: Yes, Government Exhibits 4 through 12 are 21 without objection. That's 4, 5, 5-A, 6, 7-A, 7-B, 7-C, 7-D, 8, 22 9, 10, 10-A, 11, 11-A, and 12. 23 THE COURT: Okay. They are all admitted without 24 objection. 25 (Whereupon Government Exhibits 4, 5, 5-A, 6, 7-A - D, 8, 9,

1 | 10, 11, 11-A, 12 were marked for evidence.)
2 | BY MS. DARSCH:

Q. Detective Chaves, getting back to Exhibit 4 already in evidence, is this -- if you could tell the jury one more time,

is this the closeup photograph of the outside of the residence?

A. Yes, this is once you go past the white fence, that is the

little patio in front of building number 2. There is a metal

8 door that was open like that at the time, and this is the

bicycles we saw with U.S. currency laying on the ground here during the walk-through video.

Q. I am now showing you Government Exhibit 5.

THE COURT: It can be published.

MS. DARSCH: Permission to publish?

THE COURT: Yes, all of them through 12, you can publish because they have all been admitted.

BY MS. DARSCH

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Q. I am now showing you Government Exhibit 5.

Is this a closeup of the outside of the residence where the cash was recovered that we saw earlier?

A. Yes, right below the bicycle here.

Q. I am not showing you Government Exhibit 5-A.

Is that the cash in different denominations that you described earlier through the walk-through video?

A. Yes.

Q. Okay. Now turning your attention to the search of the

inside of the residence, you mentioned earlier that you were
searching for narcotics and firearms.

Turning first to the narcotics, did you find narcotics?

A. Yes.

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- 5 | Q. What did you find?
- A. I found crack cocaine and fentanyl, MDMA, and a small
- 7 amount of marijuana.
- 8 | Q. Okay. These narcotics, how did you know they were
- 9 | fentanyl, crack cocaine, and MDMA? Were they tested by you?
- 10 | A. Yes.
- 11 | Q. What type of test did you use?
- 12 A. We have a small test that we mix some of the substance with
- 13 | the liquid. For example, for the crack cocaine, it should turn
- 14 | blue for a positive. It is called a Nik test.
- 15 | Q. Is this commonly referred to as field testing?
- 16 A. Yes.
- 17 | Q. Now, when you field test, are you testing on scene, like on
- 18 | the field?
- 19 A. No.
- 20 Q. Where are you field testing?
- 21 A. We bring it -- we bag everything and bring it back to the
- 22 | police department and then we test it on the table, and
- 23 depending on the substance, we use a hood.
- 24 | Q. You field test it at the police headquarters?
- 25 A. Yes.

- 1 | Q. You field tested the capsules?
- 2 A. Yes.
- 3 | Q. What did that field test positive for?
- 4 A. For fentanyl.
- 5 | Q. And you field tested the crack cocaine?
- 6 A. Yes.
- 7 | Q. What did that field test positive for?
- 8 A. For cocaine.
- 9 | Q. Those multi-colored pills in the walk-through video that
- 10 you mentioned, did you field test those?
- 11 | A. Yes.
- 12 | Q. And what did those multi-colored pills field test positive
- 13 | for?
- 14 | A. For MDMA.
- THE COURTROOM DEPUTY: Counsel, are we still
- 16 | publishing this picture?
- 17 MS. DARSCH: No.
- 18 THE COURTROOM DEPUTY: Okay. It comes off of ours,
- 19 | but you still have it on yours.
- 20 BY MS. DARSCH
- 21 | Q. Ultimately the narcotics, were they sent to a laboratory
- 22 | for forensic testing?
- 23 | A. Yes.
- 24 | Q. Okay. I am now showing you what has been marked as
- 25 Government Exhibit 6.

Earlier in the video you had pointed out certain narcotics
that you had seen, you pointed out the capsules and other
narcotics. Are there any other narcotics in this picture that
we didn't see in the video?
A. No. I see the crack here, the marijuana, the fentanyl.
The MDMA is not on this picture.
Q. Okay. That crack cocaine field tested positive for crack
cocaine?
A. Yes.
Q. It was those 11 capsules that field tested positive for
fentanyl?
A. Yes.
MS. DARSCH: Your Honor, permission to approach the
witness?
THE COURT: Yes.
BY MS. DARSCH:
Q. I am showing you Government Exhibit 24. What is it?
MS. DARSCH: I apologize, your Honor, the Government
is moving into evidence Government Exhibits 24, 27, and 28.
THE COURT: Any objection?
MR. SCHUMACHER: No, your Honor.
THE COURT: 24, 27, and 28 are admitted without
objection.
(Whereupon Government Exhibits 24, 27, 28 were marked for
evidence.)

1 BY MS. DARSCH:

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Q. I am showing you Government Exhibit 24.

What is this?

- A. This one in my hand or the picture?
- 5 Q. No, what I just handed you, Government Exhibit 24.
  - A. This is a small digital scale.

MS. DARSCH: Your Honor, may I approach the jury and pass it around?

THE COURT: Any objection?

MR. SCHUMACHER: No, your Honor.

THE COURT: You may. Remember, the jury will have everything when they go back to deliberate, but you can do that now if you want.

MS. DARSCH: Permission to approach the witness again, your Honor.

THE COURT: Yes.

BY MS. DARSCH:

Q. I am now showing you Government Exhibit 27.

19 What is it?

- 20 A. This is the fentanyl. It is not in the original capsules
  21 because it went to the lab and they used different capsules, so
- 22 | it is stronger.
- Q. Those are the capsules that were on the table that field tested positive for fentanyl?
- 25 A. No, those are not the capsules. The contents of the

1 capsules are here, and --

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- Q. But ultimately, that came from the capsules that were on the table?
- A. Yes. The powder is the same, they just moved it to different capsules to save it.
  - MS. DARSCH: Permission to approach the jury and pass the --

THE COURT: Yes.

Let me inquire how much longer you think you will be with the witness on direct so we can plan our mid-afternoon break.

MS. DARSCH: Maybe another 25 minutes, if that.

THE COURT: Okay. Why don't we go for another ten, maybe at 3:30, and let me know what a good breaking point would be for a mid-afternoon break. We came back in at about 2:10.

MS. DARSCH: Permission to approach.

THE COURT: Yes.

BY MS. DARSCH:

- Q. I am showing you Government Exhibit 28.
- What is it?
- 21 A. It is a baggie with crack cocaine.
  - Q. And where was that seized from?
- 23 A. From the efficiency.
  - Q. Excuse me? I can't hear you.
- 25 A. From number 2, the efficiency.

- Q. And where in the efficiency?
- 2 A. This one was on the table, I believe.
  - Q. Okay.

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- 4 MS. DARSCH: Permission to approach the jury.
- 5 THE COURT: You may.
- 6 BY MS. DARSCH
  - Q. I am now showing you Government Exhibit 7-A.
- 8 MR. SCHUMACHER: I am sorry, what are the numbers?
- 9 MS. DARSCH: 7-A.
- 10 | THE COURT: Which one is it?
- 11 MR. SCHUMACHER: 7-A.
- 12 THE COURT: Okay.
- 13 BY MS. DARSCH:
- 14 Q. Are these the 11 capsules that relate to the physical
- 15 | capsules I just showed you that are now in different containers
- 16 because they were lab tested?
- 17 | A. Yes.
- 18 Q. And now showing you Government Exhibit 7-B. Now, this
- 19 photo in particular I have a question about.
- 20 Where was this crack cocaine seized from?
- 21 A. From the efficiency.
- 22 | Q. And where in the efficiency?
- 23 A. Under -- those cell phones that you see in the picture,
- 24 | there's one facing down. The one facing up, this little bag
- 25 | was underneath it, just between the cushion and cell phone.

Q. Okay. So, with this item here, was it actually sent off -before I ask you that, did you seize this item that was on the
recliner?

- A. Yes.
- 5 | Q. Did you field test it?
- 6 A. Yes.

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- 7 | Q. Okay. Was it ultimately sent off to a lab?
- 8 A. No. Not this one.
- 9 | Q. Why?
  - A. This specific one, as we were gathering all the evidence together, it was missing, and then when I came to the conclusion, I believe once I was unscrewing the capsules with the fentanyl I have a system of testing everything that is less dangerous, for example, crack cocaine, like that, you can test it and you don't need the hood for it. You just need to put it in a kit.

The fentanyl is a little different. When you test that, you need to bring it to the hood, it's a metal thing with glass around it, and turn on the fan. When you try to unscrew the capsules, that thing, if you absorb that, you could die. I had two people who OD'd that worked with me before, so they changed the policy for that specific drug, or even if you suspect it is fentanyl, we don't test that anywhere other than the hood.

That is also one reason why we don't test anything on the street, we bring everything to the lab or to the station to be

safe.

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So, with this specific one, I tested everything that I had, the MDMA, the crack, and the marijuana. When it was time to test the fentanyl, then I went to the hood, put my gloves on, mask, we usually put eye protectors, turn on the fan, and I was unscrewing the thing to remove a little bit to test it, and somehow between me doing all that, and being worried about getting exposed to the fentanyl and then placing this back on the table, I believe I disposed this one by accident.

- Q. So you made a mistake?
- A. Yes.
- 12 | Q. Have you made other mistakes as a law enforcement officer?
- 13 | A. Yes.
- Q. What other mistakes have you made as a law enforcement
- 15 officer?
- 16 A. I was involved in a car accident before, I was at fault,
- 17 nobody got hurt, but it was a side swipe, so that was my
- 18 mistake. I have been reprimanded for not having my body camera
- 19 during the hurricane season.
- 20 | Q. Did those mistakes have anything to do with this case?
- 21 A. No.
- 22 | Q. I am now showing you Government Exhibit 7-C.
- Is this the same firearm we saw in the walk-through video?
- 24 A. Yes, with the extended mag.
- 25 | Q. And now showing you Government Exhibit 8.

- 1 Is this the same firearm?
- 2 A. Yes.
- 3 | Q. Where is the extended magazine here?
- 4 A. It is right here (indicating) in the bottom.
- 5 | Q. Is that loaded?
- A. Yes. You can see there is a round right here sticking out at the top.
- 8 Q. I am now showing you Government Exhibit 9.
- 9 What are we looking at here?
- 10 | A. It is the second firearm. It is also loaded, the magazine,
- 11 | and -- this right here means that once you clear the firearm,
- 12 | this round was actually inserted on the chamber, so he
- 13 separated it from the ones in the magazine.
- 14 | Q. Was this the other firearm on the table in the efficiency?
  - A. Yes.

- 16 Q. I am now showing you Government Exhibit 11.
- 17 What is this that we are looking at?
- 18 A. That is a cabinet on the wall that had a pill bottle with
- 19 | no lid, and that is the plastic bag. I don't know if you can
- 20 see the color, the MDMA was that color.
- 21 | Q. Did you say MDMA?
- 22 A. Yes.
- 23 | Q. This is the bag that you field tested positive -- that
- 24 | field tested positive for MDMA?
- 25 A. Yes, the content of the bag.

Did you seize those pills? 1 Q. Yes, the MDMA pills, yes. 2 Α. You are the one that field tested these pills? 3 Q. 4 Α. Yes. 5 MS. DARSCH: Permission to approach. 6 THE COURT: Yes. 7 The Government admits into evidence MS. DARSCH: 8 Government Exhibit 26. 9 MR. SCHUMACHER: Without objection, your Honor. 10 THE COURT: 26 is admitted without objection. 11 (Whereupon Government Exhibit 26 was marked for evidence.) BY MS. DARSCH: 12 13 I am showing you Government Exhibit 26. 14 Could you please explain to the jury what this is? 15 They are pills, small pills. Right here you can see some 16 are green, and some were, I would say yellow, or orange maybe. 17 MS. DARSCH: Permission to approach the jury. 18 THE COURT: You may. 19 BY MS. DARSCH: 20 Q. Detective Chaves, I asked you earlier about Exhibit 7-B, 21 the cocaine that field tested positive for crack cocaine that 22 was on the recliner in the residence that was mistakenly 23 misplaced while you were field testing the capsules that field 24 tested positive for fentanyl. 25 Can you explain to the jury, since this is a photo, how

1 | small this bag is?

- 2 A. The bag is probably, I would say if I have to show in my
- 3 hands, this big right here, a square.
- 4 | Q. What you are describing is about a one x one ziplock bag?
- 5 A. Yes.
- 6 Q. While you are field testing, you mentioned earlier that you
- 7 | are wearing personal protection equipment due to the risks of
- 8 | fentanyl?
- 9 A. Yes.
- 10 | Q. While you are field testing, are you constantly changing
- 11 gloves?
- 12 A. Yes. Every time you test something you change your gloves
- 13 | out. If for some reason I didn't get enough, then I replace
- 14 | the gloves and everything and do it again with a different
- 15 capsule.
- 16 Q. Is there paper put down that you put the drugs on and for
- 17 | personal protection also?
- 18 MR. SCHUMACHER: Objection, leading.
- 19 THE COURT: Rephrase.
- 20 BY MS. DARSCH:
- 21 | Q. Is there other personal protection equipment?
- 22 A. Yes. I lay hard paper down so that everything we have we
- 23 | put in there, take notes sometimes next to the drugs, sometimes
- 24 | we have photographs taken on the same paper, it is on the brown
- 25 | paper. Once you are done with everything, usually we rip the

- corner and we put it in the bottle and put it in the contaminated bin.
- Q. While you are doing this, do you have any other individuals in the room helping you?
- 5 A. Yes.
- Q. So, when you are completely done field testing, what are you throwing out, generally?
- A. Usually all the gloves, every piece of paper, all the kits, anything else, and the you spray everything, and for the fentanyl specifically, by policy, the way we do it, you can't test it by yourself because if I OD testing the fentanyl and they come in 20 year minutes later, you probably are not going to make it. So, you have to have somebody there, and if you are going to do this by yourself, you have to tell dispatch
- 16 Q. You testified earlier that you believe it was thrown out?
- 17 | A. Yes.

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18 | Q. Is that why you think it was thrown out?

and they do checks on you every five minutes.

- MR. SCHUMACHER: Objection, leading, asked and answered.
- 21 THE COURT: Sustained as to leading. You can 22 rephrase.
- 23 BY MS. DARSCH:
  - Q. The crack cocaine that was on the table, that was field tested by you? Turning to the crack cocaine that was on the

table. 1 2 Α. Yes, that one, yes. 3 And that was sent off to the lab? 4 Α. Yes. 5 Q. Okay. 6 Is this a good breaking point or are you THE COURT: 7 winding down? It is 3:30. 8 I have maybe five minutes. MS. DARSCH: 9 THE COURT: We will let you finish the direct and then 10 we will take a break. 11 BY MS. DARSCH: 12 Q. After you collected the narcotics in this case and field 13 tested the narcotics, what did you do with the narcotics? 14 They went downstairs to the lockers. 15 MS. DARSCH: And I have -- at this time, your Honor, 16 the Government -- we have a stipulation to introduce. 17 THE COURT: Okay. Is that an exhibit? 18 MS. DARSCH: It is Government Exhibit 31. 19 THE COURT: Are you going to read the --20 MS. DARSCH: Yes. 21 Okay. So -- and is there any objection? THE COURT: 22 MR. SCHUMACHER: No, your Honor, it is a stipulation. 23 THE COURT: Okay. So, ladies and gentlemen, sometimes 24 the parties have agreed that certain facts are true.

agreement is called a stipulation. You must treat these facts

1 as proved for this case. 2 Counsel can read the stipulation. 3 MS. DARSCH: United States of America versus Willie 4 Boone, Defendant, Stipulation of Facts in Government Exhibit 5 31. The United States of America and the Defendant, Willie Boone, hereby agree and jointly stipulate that the following 6 7 facts are true: 8 Government Exhibit 27 contains 11 capsules containing 9 N-pyrrolidinoetonitazene, a Schedule I controlled substance. 10 Government Exhibit 26 contains multiple tablets 11 containing butylone, a Schedule 1 controlled substance. 12 Government Exhibit 28 contains cocaine, a Schedule II 13 controlled substance. 14 THE COURT: Okay. 15 BY MS. DARSCH: 16 Q. Detective Chaves, I have one more photo I want to show you. 17 I am showing you Government Exhibit 12. 18 What is this a photograph of? 19 A. That was a photograph of the recliner facing the one that 20 had the phones on top of it. This one had -- in the 21 walk-through you can see that bag stuffed in the cushion. 22 MS. DARSCH: No further questions. Give me one 23 moment, your Honor. 24 THE COURT: Okay.

MS. DARSCH: No further questions.

1 That concludes the direct THE COURT: Okay. 2 examination. Will there be cross-examination? 3 There will, your Honor. MR. SCHUMACHER: 4 THE COURT: We will have our witness stay. 5 We will take a break now, ladies and gentlemen. 6 about 3:35 or so, we will be in recess for 15 minutes. So, 7 we'll come back at ten minutes to 4:00. 8 Please remember the same important instructions, you 9 are not to discuss the case among yourselves or with anyone 10 else, not to have any interaction with anyone associated with 11 the case, not to conduct any research. We will see you back in 15 minutes. 12 13 I remind our witness that you remain under oath, you 14 are not to discuss your testimony with anyone, and you will 15 come back for cross-examination. 16 Thank you. 17 (Thereupon, the jury left the courtroom.) 18 THE COURT: Okay, we will be in recess for 15 minutes. 19 (Thereupon, a short recess was taken.) 20 THE COURT: Okay, bring our jury in. 21 (Thereupon, the jury returns to the courtroom.) 22 THE COURT: Welcome back, everyone. Our witness may 23 resume the stand. 24 All right. Our witness remains under oath, and you

can start cross-examination. Just remember to speak clearly

1 into the microphone. 2 CROSS-EXAMINATION 3 BY MR. SCHUMACHER: 4 Q. Detective, you have been honest about mistakes you made 5 while you were a police officer, correct? 6 Α. Yes. 7 And obviously that is something you try to limit or 8 prevent, correct? 9 Yes, sir. Α. 10 Q. In addition to those things that you pointed out to the 11 Government on direct examination, were you also violated or 12 written reprimanded for violations back on or about September 20, 2018? 13 14 A. I believe it was the same thing, because of the body cam, 15 yes. 16 Q. I have a body cam for January 25, 2018. Do you know 17 anything about that? 18 A. Not specifically, unless you can read it for me. 19 THE COURT: I am sorry, it is hard to understand. 20 Speak clearly and louder into the microphone. 21 THE WITNESS: I don't remember the specifics, unless 22 you want to read it to me. 23 MR. SCHUMACHER: May I approach the witness, your 24 Honor?

Pauline A. Stipes, Official Federal Reporter

You may.

THE COURT:

- 1 BY MR. SCHUMACHER:
- 2 | Q. Detective, if you could review that silently, and then I
- 3 | will ask you if that refreshes your recollection.
- 4 A. Which one are you referring to?
- 5 Q. The last one.
- 6 A. September 20th?
- 7 | Q. Yes.
- 8 A. Yes.
- 9 | Q. Does that refresh your recollection?
- 10 | A. Yes.
- 11 | Q. Were you in fact reprimanded or cited three separate times?
- 12 A. Yes. I believe the body camera on this one is the same
- 13 | incident. I don't understand why they have different dates.
- 14 | Q. The body cam suggests, at least from that document,
- 15 | February, and then what we are talking about here is September?
- 16 A. January and September.
- 17 | Q. I'm sorry, January. So you can't explain that?
- 18 A. Do you want me to explain what happened?
- 19 | Q. You can't explain why there would be three separate
- 20 | incidents with three separate dates?
- 21 A. Yes, I can.
- 22 Q. Go ahead.
- 23 A. The first one was a car accident, I sideswiped somebody and
- 24 || it was my fault. The second one was, I believe, the same
- 25 | incident, but the verbal thing for the camera came before the

- 1 second reprimand.
- 2 | Q. Okay. What was that second reprimand?
- 3 | A. It was during the hurricane time as well.
- 4 Q. Those are the same thing, the body cam and the last one,
- 5 | correct?
- 6 A. Yes, sir.
- 7 MR. SCHUMACHER: May I retrieve that, your Honor?
- 8 THE COURT: You may.
- 9 BY MR. SCHUMACHER:
- 10 | Q. Okay. And Government Exhibit 7-B, that is the narcotics,
- 11 | the crack cocaine that was lost, correct?
- 12 | A. Yes, sir.
- 13 | Q. And again, of course that is not something you intended to
- 14 do, but it occurred?
- 15 A. Yes.
- 16 | Q. Likewise, when do you reports, you want to try to be as
- 17 | accurate as possible, correct?
- 18 A. As possible, yes, sir.
- 19 Q. You deal with a lot of different investigations, right?
- 20 A. Yes, sir.
- 21 | Q. So, you use those reports to refresh your recollection
- 22 | about a specific case for when you come in to testify?
- 23 A. Yes, sir.
- 24 | Q. Can we agree that in this particular case you made an error
- 25 | in connection with your reports as far as when the search

- 1 | warrant on this particular location occurred?
- 2 A. The location?
- 3 Q. Yes.
- 4 A. Yes, sir. I believe it was the date, not the location.
- 5 Q. No, no. I believe the location was fine, but did you put
- 6 | the wrong date?
- 7 | A. Yes, sir.
- 8 Q. You put it for March 2nd, rather than March 3rd?
- 9 A. I believe so, yes.
- 10 | Q. Do you want to take a look at your report?
- 11 A. Sure.
- 12 MR. SCHUMACHER: May I approach, your Honor?
- 13 THE COURT: You may.
- 14 THE WITNESS: Yes, sir, March 2nd.
- 15 BY MR. SCHUMACHER:
- 16 Q. That was inaccurate, correct, it was March 3rd?
- 17 | A. Yes. I had to write a supplemental report fixing that.
- 18 Q. No problem. We all make mistakes, right?
- 19 When was the first time your attention got brought to this
- 20 particular location? That location, I am obviously talking
- 21 | about the efficiency and the house located at 621 52nd Street,
- 22 West Palm Beach.
- 23 A. It was during the day, the same week of the warrant.
- 24 | Q. The same week of the warrant?
- 25 A. Yes.

- 1 | Q. You were aware, were you not, back in February 2022, that
- 2 | there was somebody by the name of Kevin Gibson dealing drugs
- 3 | out of this house?
- 4 A. I am not sure of the date that you just brought up, but I
- 5 knew Kevin Gibson was suspected of dealing drugs.
- 6 Q. You went out at the direction of other individuals
- 7 | associated with this investigation and surveilled this house
- 8 | before this occurred, correct?
- 9 | A. Yes, sir.
- 10 | Q. Do you have any information as you sit here today to
- 11 | suggest that there was narcotics trafficking going on at this
- 12 same location back in January 2022?
- 13 A. I can't say for sure, but that is not the first time the
- 14 | house was worked based on suspect of some narcotics, not with
- 15 | the same individuals, just the location.
- 16 | Q. And you participated, did you not, sir, in connection with
- 17 | some hand-to-hand buys that occurred at this location?
- 18 A. Did I participate? What do you mean?
- 19 Q. Was there ever a confidential informant --
- 20 A. Yes, sir.
- 21 | Q. -- in connection with making controlled buys?
- 22 A. Yes, sir.
- 23 Q. At this location?
- 24 | A. Yes, sir.
- 25 | Q. Can you tell the jury what a controlled buy is?

A. We have a confidential informant, a person that works for the police department, they are instructed, look, can you buy from this specific residence, and they say yes. So, he or she goes there with the instruction, you tell them -- you give them X amount of money, whatever it is, usually a small amount, 20, \$40 maybe, and then they go there. Most of the time, for that

specific one, they would refer to they are going to buy crack,

so the street terminology would be hard, so they are looking

for hard, and then they buy the amount that you asked them to

buy.

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If the person is actually selling it, then you surveil the whole operation from beginning to end to make sure they don't talk to anybody else, don't stop on the street and buy it from somebody else, and they try to tell you that they bought from the house.

- Q. When you say that they are employed with law enforcement, you are not saying they are actually an employee of West Palm Beach Police Department?
- A. Yes, I didn't mean anything like that.

They obviously are being directed by you to do something, so they are working for you, but they are not employed by the police department.

- Q. Do you recall, was it in February 2022 when the first control buy occurred?
- A. Yes. I have no reason to dispute that unless it is

- 1 different in my report.
- 2 | Q. Okay. Somewhere several days before the search warrant was
- 3 | executed there was at least one hand-to-hand transaction done
- 4 | by a CI, correct, at this location?
- 5 | A. Yes.
- 6 Q. In fact, you observed it, correct?
- 7 | A. Yes.
- 8 | Q. You actually had video -- I am sorry, you had audio on the
- 9 person that was going in?
- 10 | A. Yes.
- 11 | Q. You do that for the safety of the individual that is
- 12 working in connection with law enforcement, correct?
- 13 | A. Yes, sir.
- 14 | Q. Did the Government ever ask you to listen -- did you listen
- 15 | to that audio realtime as it was happening?
- 16 A. Yes, the realtime, yes.
- 17 | Q. Okay. Was there ultimately a purchase of crack cocaine
- 18 | made that particular day?
- 19 | A. Yes.
- 20 Q. By the confidential source?
- 21 A. Yes.
- 22 | Q. Okay. That source had actually met somebody at the gate
- 23 | ahead of time, correct, that same gate we have seen in
- 24 Government Exhibit 2-A.
- 25 A. Yes, there was people hanging around the gate.

- 1 | Q. And there was actually somebody that met the CI out front
- 2 | in a truck, if I understand it from your report, correct?
- 3 A. Yes.

- 4 | Q. And you later determined that that person in the truck was
- 5 a person by the name of Kevin Gibson, correct?
- 6 A. If that is what it says in the report.
  - Q. Do you need to refresh your recollection?
- 8 A. If it's in the report, yes. I don't remember the specifics9 of that.
- 10 MR. SCHUMACHER: May I approach, your Honor?
- 11 THE COURT: You may.
- 12 BY MR. SCHUMACHER:
- 13 | Q. I have it turned to the page where that might be.
- 14 A. I am following you.
- 15 | Q. Does that refresh your recollection?
- 16 A. Yes.
- 17 | Q. Was there in fact a person parked in front of this gate in
- 18 | a pick-up truck --
- 19 A. Yes.
- 20 | Q. -- when your confidential informant came to do the first
- 21 | buy?
- 22 A. Yes, sir.
- 23 | Q. Did you later determine that that person in the pick-up
- 24 | truck selling narcotics out of this back location here was in
- 25 | fact Kevin Gibson?

- 1 A. One of the persons, yes.
- 2 | Q. Fair to say that you did not see Mr. Boone on that
- 3 particular location, correct?
- 4 A. Very fair.
- 5 Q. So you and other law enforcement set up at least one
- 6 | additional buy, correct?
- 7 | A. Yes, sir.
- 8 Q. Using that same confidential informant?
- 9 | A. Yes, sir.
- 10 | Q. Going back to the same location, the efficiency depicted in
- 11 | Government's 2-A that's on the screen?
- 12 | A. Yes, sir.
- 13 | Q. And did in fact your confidential informant also buy crack
- 14 | cocaine on that day?
- 15 | A. Yes, sir.
- 16 Q. And you actually took a picture of the person that
- 17 delivered that crack cocaine to your confidential informant,
- 18 | did you not?
- 19 A. Agent Eckroth did.
- 20 | Q. Did you review that?
- 21 | A. Yes, sir.
- 22 Q. You recognized the person that is depicted in that
- 23 photograph, right?
- 24 A. Yes, it was Kevin Gibson.
- 25 Q. Kevin Gibson?

- 1 | A. Yes, sir.
- 2 | Q. When -- you ultimately were doing those controlled buys in
- 3 order to establish probable cause to get a search warrant for
- 4 | this location, correct?
- 5 | A. Yes, sir.
- 6 Q. And to otherwise provide information about who is selling
- 7 | narcotics, right?
- 8 A. If that is was my goal?
- 9 Q. Yes.
- 10 A. Yes, get in the house to retrieve the firearms and the
- 11 | narcotics.
- 12 | Q. So, search the residence and find out who is selling
- 13 | narcotics, correct?
- 14 A. And retrieve the firearms.
- 15 | Q. Okay. Let's talk about that. Officer safety is very
- 16 | important when you are going to plan on doing a search warrant,
- 17 | correct?
- 18 | A. Yes, sir.
- 19 Q. And there was something of particular concern to you and
- 20 other law enforcement about the types of weapons that might be
- 21 | in this particular location, wasn't there?
- 22 A. Yes.
- 23 | Q. Because you had information that Kevin Gibson had armed
- 24 | himself with a Glock switch, correct?
- 25 | A. Yes, sir.

- 1 | Q. Kevin Gibson, that is the information you had?
- 2 | A. Yes, sir.
- Q. Now, you said this location -- I took some notes when you were testifying and sometimes I make mistakes.
- 5 How many times did you separately surveil this location,
  6 separate instances?
- 7 A. Four times at least.
- 8 Q. Four times.
- 9 A. It could be more.
- 10 Q. Okay. Did you ever have more than one officer with you
- 11 | when you surveilled the house?
- 12 A. Yes.
- Q. Government Exhibit 2-A, this is the front of the property
- 14 | in the foreground, correct, where the big house is?
- 15 | A. Yes, sir.
- 16 Q. Then behind this location, behind this efficiency, is that
- 17 | walled off or is that secured, or is that open to traffic?
- 18 A. The day of the warrant it was open, there was a missing
- 19 | side fence.
- 20 | Q. Do you know how long that missing side fence had been
- 21 | missing?
- 22 A. I don't know.
- 23 | Q. Your testimony was that people were regularly coming from
- 24 | behind; is that correct?
- 25 A. From behind?

- 1 | Q. From behind the efficiency. In other words, they are
- 2 coming in from both directions, the front of the efficiency and
- 3 the back of the efficiency.
- 4 | A. No, I meant behind this front fence right here.
- 5 | (Indicating.)
- 6 Q. Behind this fence?
- 7 A. Yes, this one right here that you see in the picture.
- 8 | Q. Did you have anybody ever set up for surveillance in the
- 9 back of the efficiency?
- 10 | A. No.
- 11 | Q. How about on the date of the search warrant?
- 12 A. I only had somebody on the street over in case somebody ran
- 13 | that way.
- 14 | Q. Yes or no, was somebody stationed back there that would
- 15 | have been able to say who was coming and going from this
- 16 | efficiency in the back --
- 17 | A. No.
- 18 Q. -- on the day of the search warrant?
- 19 A. During the search warrant you mean?
- 20 Q. Yes.
- 21 A. I had somebody in the back, but not immediately in the back
- 22 | so they don't see us, on the street over in case somebody
- 23 | breaks through and runs that way.
- 24 | Q. Would it be fair to tell this jury that someone that didn't
- 25 || use the front of this gate, this gate right here, but rather

- 1 exited through the back of the efficiency, you didn't have law
- 2 enforcement that would have been able on the date of the search
- 3 warrant to actually say, oh, this person is coming out of that
- 4 | efficiency?
- 5 A. You could say that, yes.
- 6 Q. I am asking you, is that an accurate factual assertion?
- 7 A. It is a possibility.
- 8 Q. You didn't have somebody with eyes on to see who was coming
- 9 | and going in the back of this efficiency on March 3rd?
- 10 A. It is a possibility.
- 11 | Q. It is more than a possibility, sir. Your testimony is that
- 12 | you had another agent -- or a detective, excuse me, in one
- 13 | alleyway over from the alleyway that runs behind this, correct?
- 14 | A. There is not an alley behind, it is just like the very next
- 15 | residence, so somebody's backyard and then the house and the
- 16 street.

- 17 | Q. Was Kevin Gibson in this location on the March 3rd?
  - A. Not during the execution of the warrant.
- 19 Q. Do you know if he was there at all during the course of
- 20 | that day?
- 21 A. Yes, earlier that day.
- 22 | Q. Earlier that day you actually had seen Kevin Gibson at the
- 23 | same location selling, what you describe as a hand-to-hand
- 24 | transaction; is that right?
- 25 | A. Yes, sir.

- 1 | Q. So he is selling narcotics from this location?
- 2 | A. Yes, sir.
- 3 Q. Earlier in the day?
- 4 | A. Yes, sir.
- 5 Q. When did he leave?
- 6 A. Sometime between me leaving the residence and going to
- 7 | brief the SWAT team about the warrant he left.
- 8 Q. How much time is that?
- 9 A. I would say one, maybe two hours maximum window.
- 10 Q. Okay. So you saw Kevin Gibson selling narcotics on that
- 11 | day from this location?
- 12 | A. Yes, sir.
- 13 Q. Okay. When did Willie Boone enter that location where you
- 14 | saw him inside this gate?
- 15 A. I don't know when he entered.
- 16 | O. You don't know?
- 17 | A. No.
- 18 | Q. When you left to go brief the SWAT team, did you leave
- 19 anybody there, any other law enforcement, and say keep watch on
- 20 | this place and let's find out who is coming and going?
- 21 A. Before I get to the SWAT team to do the warrant, one of the
- 22 detectives went there and replaced me and stayed there.
- 23 | Q. Who is that?
- 24 | A. I believe it was Officer Verialli (phon). There was maybe
- 25 | and one more detective, I don't know the name or who it was

- 1 | specifically.
- 2 | Q. Is it fair to say that you never saw Willie Boone inside
- 3 the efficiency that day?
- 4 | A. That day?
- 5 Q. Yes.
- 6 A. Yes.
- 7 | Q. That is fair?
- 8 | A. Yes.
- 9 Q. You didn't see him inside this back building?
- 10 | A. No.
- 11 | Q. In fact, when you approached, I think your testimony was
- 12 | that there was another individual that had just left that
- 13 property, correct, on a bicycle?
- 14 A. Yes. That is in my report, yes.
- 15 | Q. That was Mr. Roger Williams?
- 16 A. Yes.
- 17 | Q. You had him stopped, or other law enforcement had him
- 18 stopped?
- 19 A. Yes.
- 20 | Q. Do you know if Roger Williams had been inside that
- 21 | efficiency that day?
- 22 A. No. I don't know.
- 23 | Q. Are you able to sit here -- by the way, did you actually
- 24 | see Mr. Gibson coming and going from that residence that day?
- 25 A. No. I saw him on the front yard just going back behind the

- 1 | fence, but not inside the efficiency.
- 2 | Q. Didn't you indicate that he would take money from somebody
- 3 up front, then he would return to that efficiency because that
- 4 was the drug hole, right?
- 5 A. Yes.
- 6 Q. The drug hole is where they actually store the narcotics,
- 7 | correct?
- 8 A. Yes, sir.
- 9 Q. He takes the money from the person at the gate and then you
- 10 | would see Mr. Gibson go back inside the residence, correct?
- 11 A. Well, back passed the gate, yes.
- 12 | Q. Where did he go? Could you see him?
- 13 A. Knowing my ability, he went into building number 2.
- 14 Q. He went into number 2?
- 15 A. Yes.
- 16 | Q. You did see him coming in and out of number 2 that day?
- 17 | A. I didn't see him physically break the threshold of the
- 18 door, but, yes, I saw him. Because this fence is closed in,
- 19 | that yard is part of building number 2. If I break into that
- 20 gate, I am breaking into building number 2.
- 21 | Q. Okay. I wrote down that when you were talking about
- 22 Government Exhibit 2-A, you said that you first saw Willie
- 23 | Boone for the first time when you opened that gate, correct?
- 24 | A. Yes.
- 25 | Q. Now, did you open the gate or did SWAT open the gate?

- 1 A. I am SWAT, I opened the gate.
- 2 | Q. You are in tactical gear?
- 3 | A. Yes, sir.
- 4 | Q. You are the first person who actually opened the white gate
- 5 | that we see here?
- 6 A. Yes. I was the breacher. The gate wasn't locked, so I
- 7 | didn't have to physically breach, I just opened it.
- 8 Q. By the way, the bicycles and all that that we see, is that
- 9 around this corner right here?
- 10 | A. Yes.
- 11 | Q. The bicycles are not here, they are around the corner,
- 12 || right?
- 13 | A. Yes, sir.
- 14 Q. Mr. Boone was closer here or here? (Indicating.)
- 15 A. He was in between, right here. (Indicating.)
- 16 | Q. And then he initially turns, okay. When he sees you coming
- 17 | through the gate, he turns around, does he not, according to
- 18 | your report?
- 19 A. No.
- 20 MR. SCHUMACHER: May I have a moment, your Honor?
- 21 THE COURT: Yes.
- 22 MR. SCHUMACHER: May I approach?
- THE COURT: You may.
- 24 BY MR. SCHUMACHER:
- 25 | Q. Detective, I am going to call your attention to page seven

- of your report, the very last paragraph. Could you read that to yourself, please.
- 3 | A. I see it.
- 4 | Q. Does that refresh your recollection?
- 5 | A. Yes.
- 6 Q. So, after you breached the gate, Mr. Boone turns, correct?
- 7 A. No. He goes before that.
- 8 | Q. Is that what your report says?
- 9 | A. Do you want me to explain exactly what happened?
- 10 | Q. Yes.
- 11 A. So, as you can see this gate, I am 5'8", the gate might be
- 12 | 6 feet, you have to open the door. One would come in -- SWAT
- 13 | would come in an armored vehicle, the vehicle pulls up to the
- 14 gate. There is a sniper, a guy with a long gun, in the turret,
- 15 which is the opening on the roof on the car. He sees Mr.
- 16 Boone, and then he is screaming, there is a guy here, he is
- 17 | throwing money, he is trying to walk back out --
- MR. SCHUMACHER: Judge, I'm sorry, I am going to
- 19 | object to this as hearsay.
- 20 THE COURT: Why don't you break your question down.
- 21 BY MR. SCHUMACHER:
- 22 | Q. My question is: When you come through the gate, does Mr.
- 23 Boone turn around; yes or no?
- 24 A. No, he is already on the ground.
- 25 | Q. He has been directed onto the ground?

- 1 A. Yes, sir.
- 2 | Q. Is it fair also to say that you never saw him throw money
- 3 at all?
- 4 A. No.
- 5 | Q. You never did?
- 6 A. No. I just heard it.
- 7 | Q. So, the money we see in Government Exhibit 5 strewn about
- 8 by the bicycles, you never saw Mr. Boone deposit that back
- 9 there, you personally?
- 10 | A. No.
- 11 Q. Okay. Going back to 2-A, where was -- where is Mr. Boone
- 12 | actually face down?
- 13 | A. Somewhere right here in this area. (Indicating.)
- 14 | Q. Okay. Before the corner of the wall or in front of the
- 15 | wall?
- 16 A. I would say halfway, his body, the legs maybe closer to the
- 17 | bicycle and his upper body a little further out.
- 18 Q. Okay. Government Exhibit 3 are mailboxes at the front. We
- 19 see that there is 621 A and 621 B; is that right?
- 20 A. Yes, sir.
- 21 | Q. B belongs to the efficiency, correct?
- 22 A. Yes, sir.
- 23 | Q. Your search warrant permitted you to search that mailbox,
- 24 | correct?
- 25 | A. Yes, sir.

- 1 | Q. Did you do that?
- 2 A. I don't recall doing it.
- 3 Q. As part of your training and experience, you are taught to
- 4 | look for anything -- drug dens or drug holes are not unknown to
- 5 you, you have come upon them many times, right?
- 6 A. Yes, sir.
- 7 | Q. Many times law enforcement is looking for evidence that
- 8 | would suggest who is actually living there, right?
- 9 A. If somebody is, yes.
- 10 | Q. One of the ways that you determine that is whether or not
- 11 | there is mail in the box?
- 12 A. Yes.
- 13 | Q. As we sit here today, can you say whether or not Willie
- 14 Boone had any mail in 621 B?
- 15 A. I can't say that. I don't know.
- 16 | Q. What about a lease; in whose name was the lease for 621 B?
- 17 | A. I don't know.
- 18 | Q. Why not?
- 19 A. I never went and looked for it.
- 20 | Q. You have access to property owner records, correct?
- 21 | A. Yes.
- 22 | Q. Did you know who owned this property?
- 23 A. No. I don't know who owned it.
- 24 Q. You don't know?
- 25 A. No.

- Q. You never made any attempt to find out who owned either of
- 2 | these two properties?
- 3 A. No, sir.
- 4 | Q. Do you know whether or not the owner of the properties
- 5 | lived in unit A?
- 6 A. I don't believe they do.
- 7 | Q. You don't believe they do?
- 8 A. No.
- 9 Q. Why do you not believe that?
- 10 A. Because I knew a person that lived in the front residence,
- 11 | and he was related to Willie.
- 12 Q. He is related to?
- 13 A. Willie Boone.
- 14 Q. Okay. Did you ever speak to those people that lived in 621
- 15 A to see, hey, who lives back here?
- 16 A. No.
- 17 | Q. That is a witness, right?
- 18 A. They wouldn't come to the door.
- 19 Q. Well, law enforcement doesn't just knock at the door one
- 20 | time and that is the end of it, right? That is what a good law
- 21 | enforcement officer will do. There is persistence involved,
- 22 | right?
- 23 A. Yeah, but I can't force them to come to the door.
- 24 | Q. No, sir, but you can go back at least a second time?
- 25 A. He did not come to the door.

- 1 | Q. Do you know who else was living there other than Mr.
- 2 Boone's family member, in the front here?
- 3 | A. No.
- 4 | Q. What is the name of the family member that lives in the
- 5 | front unit?
- 6 A. Russell.
- 7 | Q. What is his last name?
- 8 A. Russell Robertson, I believe.
- 9 | Q. What is his relationship to Willie Boone, if you know?
- 10 A. I believe they are cousins.
- 11 | Q. Maybe or they are?
- 12 A. They were cousins.
- 13 | Q. You never showed any kind of photo lineup to anyone in the
- 14 | neighborhood, for instance, and said, hey, did you ever see
- 15 | this guy coming and going from 621 B?
- 16 A. No.
- 17 | Q. Was it important to you?
- 18 A. At that time, no.
- 19 Q. Government Exhibit 6, we talked about this table that you
- 20 | saw, the white table with two guns and the varying narcotics;
- 21 | is that right?
- 22 A. Yes, sir.
- 23 | Q. Right on the same table where all the narcotics and the
- 24 guns are is a receipt. Do you see that?
- 25 A. Yes, I do.

- 1 | Q. In whose name is that receipt?
- 2 A. Whose name? You mean the business receipt?
- 3 Q. Well, what can you tell us about the receipt? Was it a
- 4 | cash receipt? Was it something that a credit card was used?
- 5 What do you remember about that receipt?
- 6 A. It is just a receipt we collected.
- 7 | Q. You know that receipts sometimes have, if you pay by credit
- 8 card, the name of the person that actually used this credit
- 9 card to pay for it?
- 10 A. Yes.
- 11 | Q. But you chose not to look at that?
- 12 A. Yes.
- 13 Q. Does the receipt show the purchase, for instance, of a
- 14 | weapon?
- 15 A. No.
- 16 Q. Does it show a purchase of narcotics?
- 17 | A. No.
- 18 Q. What about -- I think you testified that this thing
- 19 | underneath the receipt -- we know about the razor, but I am
- 20 | talking about this item.
- 21 | A. Yes, sir.
- 22 | Q. That is a Mac or some type of iPad?
- 23 A. Yes, I think so.
- 24 | Q. Was that seized that day?
- 25 A. I don't believe so.

- 1 | Q. Why not?
- 2 A. I think it was broken.
- 3 | Q. Did you try to turn it on?
- 4 A. Yes.
- 5 Q. Nevertheless, when something doesn't turn on, you are
- 6 accustomed to that in law enforcement, electronic items,
- 7 | correct?
- 8 A. Sometimes, yes.
- 9 Q. You have the ability to, A, power them up, or B, have your
- 10 | forensic team power it up or just download whatever is on
- 11 | there?
- 12 A. Sometime, yes.
- 13 | Q. Can we agree that this particular laptop or iPad, or
- 14 whatever it might be -- do you remember what it was, by the
- 15 | way?
- 16 A. I's say an iPad. I don't know, I don't have one.
- 17 | Q. That is a lot closer to the narcotics and to the guns than
- 18 | the phones, correct?
- 19 A. Yes.
- 20 Q. So you never asked that that item be processed?
- 21 A. No.
- 22 Q. Or your electronics team or --
- 23 A. No, sir.
- 24 | Q. Do you have like a nerd squad or something like that?
- 25 A. You can call them that.

- 1 Q. I didn't see a photograph of it, but from your report, I
- 2 understand that there was Jamaican currency found in the amount
- 3 of 1,844 Jamaican dollars, correct?
- 4 A. Yes.
- 5 Q. To whom did that belong?
- 6 A. I don't know. It was in the house.
- 7 | Q. Do you know whether or not Willie Boone ever went to
- 8 | Jamaica?
- 9 A. I don't know.
- 10 Q. Does he even have a passport?
- 11 A. I don't know.
- 12 | Q. Roger Williams, did you have any contact with him that day
- 13 | at all?
- 14 | A. No.
- 15 | Q. You never spoke to him once?
- 16 A. No.
- 17 | Q. You indicated to this jury you had prior incidents or
- 18 contact with Kevin Gibson?
- 19 A. Yes.
- 20 | Q. Do you know whether or not either of those two
- 21 gentlemen have ever been to Jamaica recently?
- 22 A. I don't know.
- 23 | Q. It is a little odd to find Jamaican currency in a drug den,
- 24 | isn't it, sir, especially \$1,844?
- 25 A. It is a drug den, everything is odd.

- 1 | Q. That doesn't raise your eyebrow at all?
- 2 A. The Jamaican currency?
- 3 Q. Yes.
- 4 A. No.
- 5 Q. In your surveillance of this location, the efficiency --
- 6 did you search Mr. Boone that day?
- 7 A. I believe once I made contact at first, I patted him down
- 8 to make sure he didn't have any weapons on him.
- 9 | Q. Were you aware as to the contents of his pockets or
- 10 | anything like that? Did you ever make inquiry of any --
- 11 A. I don't remember if he had anything in his pockets. I
- 12 | can't remember.
- 13 Q. On Mr. Boone that day, March 3rd, you never found any
- 14 | narcotics on his person?
- 15 A. I don't believe I did, no.
- 16 | Q. You never found firearms on his person?
- 17 | A. No. No.
- 18 | Q. You did two control deals, correct, with your CI?
- 19 A. Yes.
- 20 | Q. And you witnessed a whole bunch of other hand-to-hand
- 21 | transactions?
- 22 A. Yes, sir.
- 23 | Q. How many hand-to-hand transactions do you think you saw
- 24 coming from this efficiency total?
- 25 | A. If I have to guess, six, eight, maybe.

- 1 Q. Six or eight?
- 2 | A. Yes.
- 3 | Q. And that is over the course of maybe ten days starting in
- 4 | later February?
- 5 A. Later than that, two days.
- 6 Q. Is it fair to say, sir, that in not one of those six to
- 7 | eight transactions did you ever see Willie Boone conducting a
- 8 | hand to hand?
- 9 A. Fair.
- 10 Q. That is fair, you never saw that?
- 11 | A. No.
- 12 Q. Never heard from any -- I'll withdraw that.
- MR. SCHUMACHER: May I have a moment, your Honor?
- 14 THE COURT: Yes.
- MR. SCHUMACHER: I tender the witness, your Honor.
- 16 Thank you.
- 17 | THE COURT: Is there any cross-examination?
- 18 MS. DARSCH: Redirect, briefly.
- 19 THE COURT: I am sorry, redirect, yes.
- 20 REDIRECT EXAMINATION
- 21 | BY MS. DARSCH:
- 22 | Q. Detective Chaves, opposing counsel, Mr. Schumacher, asked
- 23 | you a lot about SWAT and your surveillance on March 3, 2022 of
- 24 the efficiency.
- 25 A. Yes.

Q. So, I want to go to office procedures. Was there a debriefing prior to the execution of the search warrant on March 3, 2022?

- A. Yes.
- 5 Q. Were you at that debriefing?
- 6 A. Yes.

- Q. Could you please explain the general procedures of why your office would require there be a debriefing prior to the execution of the search warrant?
  - A. Sure. Once I got the warrant approved, I have to put a package together. I have the warrant, I have possible pictures of locations, suspects, anything about the house that may be odd. Then I have to get an ops plan for SWAT. Based on the ops plan, they are going to see what challenges with the house or the area presents, or maybe a suspect that we know of and their criminal history, if they are violent or not.

Then I will have a picture of the place so they can come up with the best angle to approach the house, try to minimize any crossfire, or make sure there are no kids in the street, nobody is playing out. So I have to explain all that.

I put pictures on the screen, I show it, I show what I think is the best place for us to come in and out because I am SWAT, I was not only part of the investigation, I was part of the execution of the warrant.

Then, based on that, they tell me where I am going to be

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placed, if I am going to be the first person through the threshold, the guy opening the door, or I'm going to be standing back waiting to assist somebody coming out of the Sometimes you go in a house and there are 30 people house. there, so there is a method to get everybody out safely. Q. In addition to this operation plan, is there also surveillance going on while you're in the debriefing? Yes. Usually when I meet up to give the briefing to explain the facts of the case, because it involves 30, 40 people, not everybody is aware of what is going on to that point, I usually ask one of the detectives that is not directly involved in the SWAT operation to go there and watch the house to make sure no cars came in and parked in the driveway or maybe somebody came out carrying a bag, or maybe somebody came in carrying a bag, or maybe and five people walk in and they all carry rifles. It's going to change the dynamics of how we are going to approach this, so I usually send somebody. Q. While you were in debriefing or en route to the execution of the search warrant, were other members of SWAT watching the efficiency? The SWAT members, we meet in the truck because No. everybody has to come back, but I had detectives, the CID detectives, I believe it was two, one was Detective Verialli

(phon), he was watching the house.

So it was under constant surveillance?

A. Yes. There might have been a window between me going back and asking him, hey, can you please go and stay there because I am going to brief the SWAT team, but he was there.

- Q. And then while -- after your debriefing on March 3, 2022, while en route to the residence, what happened?
- A. Usually when we are en route, if anything moves in the house, somebody comes in or out, somebody approaches the house, they tell us on the radio: SWAT, there is a car, there is a bus, a female or male, a child, or maybe there is a dog in the front yard, because that changes the dynamic.

He said when we approached, I believe we were somewhere on 45th and Broadway, which is, I would say, eight blocks from the residence approximately, he said there were two males --

MR. SCHUMACHER: Objection, your Honor, hearsay.

MS. DARSCH: Your Honor, this is not hearsay, it is the effect on the listener as to why he did what he did, which was detaining Mr. Boone. He was specifically asked about this on cross-examination as to why he detained Mr. Boone, and Mr. Schumacher objected based on hearsay. It is relevant, it is invited, it is relevant, and it isn't hearsay, it is the effect on the listener as to why he detained Mr. Boone.

THE COURT: You can ask specifically why he detained Mr. Boone, and the witness can answer if he is able to answer without calling upon hearsay.

Let's see how you are able to answer the question of

1 why you detained Mr. Boone based on your actions. 2 THE WITNESS: As soon as I opened the gate with SWAT, 3 there was two guys in front of me we will call number 1 and 4 number 2, they were both carrying rifles. I opened the gate, 5 one went left and one went right. Mr. Willie Boone was laying on the ground, so they told me, grab him. He was laying down. 6 7 At this point I don't know if somebody else is behind 8 there, but he was behind the fence so I had to detain him 9 because at that point he was part of the house. 10 BY MS. DARSCH: 11 Q. And why did SWAT tell you to grab him? 12 MR. SCHUMACHER: Objection, hearsay. 13 It is not hearsay, it's effect on the MS. DARSCH: 14 listener as to why he detained him. 15 MR. SCHUMACHER: It is not being offered --16 THE COURT: Just a minute. What was the question, 17 what SWAT told him? 18 MS. DARSCH: No. 19 THE COURT: What was the last question? 20 MS. DARSCH: The last question was --21 THE COURT: Why did SWAT --22 MS. DARSCH: Why did SWAT tell him to detain him? 23 MR. SCHUMACHER: Also, it calls for speculation. 24 THE COURT: You can first ask whether he knows why SWAT asked him to detain Mr. Boone. 25

1 BY MS. DARSCH: 2 Q. Do you know why SWAT told you to detain Mr. Boone? 3 Same objection. MR. SCHUMACHER: 4 THE COURT: Overruled. 5 THE WITNESS: Yes, I do. Because he was behind the 6 fence, I had to pat him down, he was laying on his belly. 7 last thing they want me to do is go past him and then he gets 8 up and he does have a firearm and I get shot in the back. MR. SCHUMACHER: 9 I want to make sure that is a 10 hypothetical, that's not what happened. 11 MS. DARSCH: No, no. 12 THE COURT: Was there an objection? Yes, Judge. 13 MR. SCHUMACHER: 14 What is the objection? THE COURT: 15 MR. SCHUMACHER: I want a clarification for the jury. 16 It sounds like Mr. Boone had a gun at the time. 17 THE COURT: You can seek to clarify on redirect, and 18 if Mr. Schumacher needs to further inquire on that point, you 19 may have that if you want to try to clarify the record on that 20 issue. 21 MR. SCHUMACHER: Thank you. 22 BY MS. DARSCH: 23 The objection earlier was overruled as to, do you know why 24 SWAT told you to detain him, and you said yes?

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Α.

Yes.

- Q. And would anything in your report refresh your recollection as to why SWAT told you to detain him?
- 3 A. Sure.
- 4 | Q. So, did that report refresh your recollection?
- 5 A. Yes.
- 6 Q. Do you know why SWAT told you to detain him?
  - A. Yes.

- 8 MR. SCHUMACHER: Same objection.
- 9 THE COURT: Overruled.
- 10 BY MS. DARSCH:
- 11 | Q. Why?
- 12 A. Safety foremost, but the sniper could see over the fence, I
- 13 | couldn't. So he tells me, he is throwing on it, he is going
- 14 back in the house, trying to go back into the house. I hear
- 15 | him saying, get on the ground, get on the ground, get on the
- 16 ground. Mr. Boone gets on the ground. I finally open the gate
- 17 | and see that both operators split, and I go in between and I
- 18 grab Mr. Boone. I start pulling him out, because at that point
- 19 | if something goes bad, I want to make sure I can blade him with
- 20 | my body and we can get out of there.
- 21 | Q. When you kept saying he, is that Mr. Boone?
- 22 A. Yes, throwing the money and trying to go back.
- MS. DARSCH: Nothing further, your Honor.
- 24 | THE COURT: Was there anything further, Mr.
- 25 | Schumacher, that you needed to clarify on that point, or was

1 that clarified to your satisfaction? MR. SCHUMACHER: 2 Just one followup. 3 RECROSS EXAMINATION 4 BY MR. SCHUMACHER: 5 Detective, you were talking about when you first came in you wanted to make sure that you weren't shot or anybody pulled 6 7 a gun, correct? 8 A. Yes. 9 You were just saying that that was your concern, correct? 10 Yes, safety. Α. 11 Mr. Boone never had a gun on him or even within proximity 12 to him. Do you agree with that? 13 Yes. Α. 14 MR. SCHUMACHER: Nothing in addition, your Honor. 15 Thank you. 16 THE COURT: Okay. Nothing further from the 17 Government? 18 MS. DARSCH: Nothing further, your Honor, thank you. 19 THE COURT: Thank you so much, you may step down. 20 The Government may call your next witness. 21 MS. DARSCH: The Government calls Aisha Eckroth. 22 THE COURT: Okay. 23 AISHA ECKROTH, GOVERNMENT'S WITNESS, SWORN 24 THE COURTROOM DEPUTY: Have a seat. You can adjust 25 that mic, speak right into the microphone, and if you would

state your full name for the record and spell your last name
for the Court Reporter, please.

THE WITNESS: My name is Aisha Eckroth, A-I-S-H-A, E-C-K-R-O-T-H.

## DIRECT EXAMINATION

6 BY MS. DARSCH:

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- Q. Good afternoon, Ms. Eckroth.
- 8 A. Good afternoon.
- 9 Q. Where are you currently employed?
- 10 A. West Palm Beach Police Department.
- 11 | Q. What is your job title?
- 12 A. Crime scene investigator.
- 13 | Q. Do you call that CSI?
- 14 | A. Yes.
- 15 Q. How long have you been a CSI for the West Palm Beach Police
- 16 | Department?
- 17 A. Almost seven years now.
- 18 | Q. Can you give a brief description of your job?
- 19 A. Sure. We respond to crime scenes, we document the scene
- 20 | through photography, measurements, we mark items of evidence,
- 21 we collect those items of evidence. We also then process those
- 22 || items of evidence once we transport them back to the police
- 23 department, as well as court testimony.
- Q. About how many cases a year have you investigated as a
- 25 crime scene investigator?

- 1 A. About a hundred a year.
- 2 | Q. Throughout the course of your career, how many firearms
- 3 have you investigated?
- 4 A. About over 300 firearms.
- 5 Q. What types of education and training have you received?
- 6 A. I have my Bachelor of Science in biology, with a
- 7 | concentration in solid and molecular biology. I also completed
- 8 the course work for the Master's forensic science program. At
- 9 | the West Palm Beach Police Department itself I have done
- 10 | approximately 160 hours of outside training, as well as any
- 11 | interior training that we do within the unit.
- 12 | Q. Do you have training also in forensic photography?
- 13 A. Yes. So the different training courses include
- 14 photography, blood pattern analysis, latent print development.
- 15 | It is a wide variety of classes and course work.
- 16 | Q. Let's talk about your involvement in this case. Were you
- 17 | involved in the execution of a search warrant on March 3, 2022,
- 18 at 621 52nd Street, West Palm Beach, Florida?
- 19 A. I was.
- 20 | Q. Prior to any searching, did you conduct a walk-through of
- 21 | the scene?
- 22 A. Yes.
- 23 | Q. Did you take photographs of the interior and exterior of
- 24 | the residence?
- 25 A. That is correct, both interior and exterior.

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playing.)

In addition to the photographs of the residence, did you record a walk-through video of the interior and exterior of the 3 residence? Immediately after obtaining the photographs, I did do a video walk-through as well. Q. I am now showing you what has been previously admitted in 7 evidence as Government Exhibit 1. (Thereupon, the video marked Government Exhibit 1 was 9 played.) Stopping the video at one minute 36 seconds. What are you recording here? There is approximately -- well, there is \$995 of United 12 13 States currency, it was kind of scattered throughout the area there where the bicycles are. I was various denominations, 1's, 5's, 10's, 20's, 50's and 100's. 16 Q. Starting the video. 17 (Thereupon, the video marked Government Exhibit 1 continued 18 playing.) 19 Stopping the video at four minutes five seconds. What are you recording here? Here I am recording there are two firearms on the table Α. that I am now focusing on. 23 Starting the video. Q. (Thereupon, the video marked Government Exhibit 1 continued

1 Stopping the video at five minutes 54 seconds. 2 Ms. Eckroth, in the right upper area, in the storage unit 3 box, what is in there? 4 A. On the top I was advised that there were --5 MR. SCHUMACHER: Objection, hearsay. 6 THE COURT: Sustained to the extent it calls for what 7 someone else told you. Are you able to rephrase? 8 BY MS. DARSCH: 9 Q. Could you explain to the jury, without telling us what 10 somebody else said to you, what you see in the upper storage 11 unit? 12 A. It could -- I can't tell. 13 Can you see where I am marking? Q. 14 Α. Uh-hum. 15 What are we looking at here? Q. 16 The ring box, that ring box. Α. 17 Okay. Thank you. It is a black ring box? Q. 18 Α. Yes. 19 Q. Starting the video. 20 (Thereupon, the video marked Government Exhibit 1 continued 21 playing.) 22 Ms. Eckroth, I am stopping the video at six minutes 23 13 seconds. Is this the second time you have now recorded 24 those two cell phones?

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Α.

That is correct.

1 Why? Q. 2 The first time I was going over that middle table in the 3 center, the white table, to go over what was on top of it, 4 however, the phone -- one of the phones that was just shown 5 here began to ring. So, I diverted my attention to that table over to the phones and zooming in on those because one of them 6 7 was ringing. 8 Now I am just coming back to that because I had not 9 officially gone over that area yet with the video camera. 10 Q. Starting the video. 11 (Thereupon, the video marked Government Exhibit 1 continued 12 playing.) 13 MS. DARSCH: We can stop the video in its entirety. 14 BY MS. DARSCH: 15 Did you collect those two firearms we saw in the video? 16 I did, yes. Α. 17 MS. DARSCH: Your Honor, permission to approach the 18 witness. 19 THE COURT: You may. 20 MS. DARSCH: These firearms are safely secured with 21 the magazines not attached to them. 22 THE COURT: Okay. 23 MS. DARSCH: The Government moves in evidence Government Exhibits 13 and 14, which are the physical firearms, 24

Government Exhibit 13 is the Glock pistol, Government Exhibit

1 14 is the Springfield Armory pistol, without objection from 2 Defense counsel. 3 THE COURT: All right. Admitted without objection? 4 MR. SCHUMACHER: Yes, your Honor. 5 THE COURT: Okay. 6 (Whereupon Government Exhibits 13, 14 were marked for 7 evidence.) BY MS. DARSCH: 8 9 Where did you obtain these two firearms? 10 These were the two firearms that were on the white circular 11 table that was in the living room area. 12 Did you obtain the firearms on March 3, 2022? Q. 13 Α. That is correct. 14 Turning first to the Government Exhibit 13, would you 15 please just show the jury Government Exhibit 13. 16 MS. DARSCH: Your Honor, may Ms. Eckroth go in front 17 of the jury without handing the firearm to the jury and show 18 them Government Exhibit 13? 19 THE COURT: Any objection? 20 MR. SCHUMACHER: No, your Honor. 21 THE COURT: She may. 22 MS. DARSCH: Can she also show Government Exhibit 14. 23 Which is the Springfield Armory pistol? 24 THE COURT: She may. 25

- 1 BY MS. DARSCH:
- 2 | Q. Okay. You had mentioned that you had seized these two
- 3 | firearms from the scene of the residence on March 3, 2022?
- 4 A. That is correct.
- 5 | Q. In the beginning of the video there was an individual right
- 6 | in the beginning wearing blue gloves. Did you recall seeing
- 7 | that?
- 8 A. I am sorry, what was the image?
- 9 | Q. In the beginning of the walk-through video there was a
- 10 person with blue gloves, just the glove. Do you recall seeing
- 11 | that?
- 12 A. I might want to see that again. Would you be able to bring
- 13 | it up so I could look?
- 14 Q. Yes. Right in the beginning at 34 seconds.
- 15 A. Oh, that would have been me. That would have been myself
- 16 in the video.
- 17 | Q. Right there? (Indicating.)
- 18 A. That is my hand.
- 19 Q. That is your hand?
- 20 A. Yes.
- 21 | Q. Do you wear gloves on scene?
- 22 | A. Yes. Typically, we always wear gloves on scene.
- 23 | Q. Can you generally explain how you preserve items on scene,
- 24 | but specifically these two firearms?
- 25 | A. The best way to preserve any evidence on scene is, one, to

wear gloves. It protects both myself from what could be on the item, as well as protect the item from myself, meaning any cross contamination, any DNA, anything that may be on my hands.

It is very important that any time I am touching an item of evidence I always have a new pair of gloves. I also have a camera with me, so if there is any point that I touch my camera and I need to now touch an item of evidence, my gloves would be changed. Once that item is touched and handled my gloves would be changed again before I ever touch my camera.

- Q. And generally, if you move an item such as a firearm to -if you are going to transport it to a different location, what
  do you use?
- A. We have a variety of different ways to package evidence on scene for transport, we have paper bags. In this case we have weapons evidence boxes, which are kind of like mini pizza boxes that are rectangular shaped so we can put the firearm inside of it. It is a lot sturdier than a paper bag, and when I set up my weapons evidence boxes, I always use a fresh pair of gloves to make the box, to kind of fold it into place.
- Q. So, did you use the new weapons evidence box in this case?
- A. For both firearms, that is correct.
  - Q. Just approximately, when you are on a scene, how many pairs of gloves do you use while processing the scene?
  - A. It can depend. I have gone through a whole box on scene before. In this case, I was probably changing my gloves three,

1 | four, five times between items.

- 2 Q. Okay. Now, you mentioned the firearms in this case and the
- 3 weapons evidence box. Turning specifically to this first
- 4 | firearm, the Glock, Government Exhibit 13, while on scene did
- 5 you render this firearm safe?
- 6 A. I did, yes.
- 7 | Q. How did you render it safe on scene?
- 8 A. So the first thing that you want to do when you have a
- 9 | loaded firearm, or really any firearm, is you need to remove
- 10 | the magazine. That is our source of ammunition, so you want to
- 11 get that removed. That is the first thing I am going to do to
- 12 | make a firearm safe.
- 13 Once that magazine is removed with all of the additional
- 14 | live rounds, then what I do is pull back the slide and if there
- 15 | is a live round in the chamber, when I do that action that live
- 16 | round would come out, and now there is no ammunition within the
- 17 | firearm and it is now rendered safe.
- 18 | Q. Were you wearing gloves when did you that?
- 19 A. Yes, I was.
- 20 | Q. A new pair of gloves you were wearing?
- 21 | A. Yes, I was.
- 22 | Q. Was there a live round in the chamber for the Glock pistol?
- 23 A. There was.
- 24 | Q. And was there an attached magazine to this pistol?
- 25 A. Yes. So, I removed the magazine. In this case, for the

- 1 Glock it was an extended magazine, which means it is not the 2 standard magazine that comes with it. When it is a standard magazine the bottom would be flush with the bottom of the grip.
- 4 In this case, it is an extended magazine, so it kind of
- 5 overhangs the bottom of the grip in a sense.
- 6 Were there rounds in this extended magazine?
- 7 Α. Yes, there were.
  - Do you recall how many? Q.
- 9 24. Α.

- 10 Q. Okay. So, once you render the firearm -- the Glock safe by
- 11 taking out the loaded round and -- did you transfer it to the
- 12 weapon box in this case?
- 13 A. Yes. So, I put it inside -- you can see kind of that
- 14 cardboard box that is in there, that is the weapon evidence box
- 15 that I was talking about and that's how I transported it.
- 16 THE COURT: Do you want that shown to the jury?
- 17 THE WITNESS: Sorry, I didn't realize that.
- 18 BY MS. DARSCH:
- 19 Were additional photographs taken of you doing that?
- 20 Yes, there were. Α.
- 21 I am showing you Government Exhibit 8, which has been
- 22 admitted into evidence. If we could publish this to the jury.
- 23 Yes, there is the cardboard box.
- 24 Is this the Glock pistol, Government Exhibit 13, which we
- 25 are now looking at in Government Exhibit 8?

- 1 A. Yes.
- 2 | Q. Is that the same Glock pistol that you have with you at the
- 3 | witness box?
- 4 | A. Yes, it is.
- 5 | Q. Is that the extended magazine you were talking about with
- 6 | the difference on the bottom?
- 7 A. Yes, it is.
- 8 Q. Okay. Now moving away from transferring the firearm from
- 9 the scene into the weapons box, now I want to take you to did
- 10 you swab this firearm for possible DNA?
- 11 A. Yes, I did.
- 12 Q. Where was the firearm when it was swabbed for DNA?
- 13 A. That would be back at our headquarters at the West Palm
- 14 | Beach Police Department.
- 15 | Q. Why not swab on scene?
- 16 A. It is a more controlled environment. When we are at the
- 17 police station we have the ability to sterilize things versus
- 18 when you are in an environment, you have to take into account
- 19 | the location, weather, things that can't be controlled when you
- 20 | are within your own crime scene unit.
- 21 | Q. Okay. Turning back to the Glock pistol, how many swab
- 22 | samples were obtained?
- 23 A. From the Glock there would be five.
- 24 | Q. Okay. Turning back to swabbing the Glock pistol for DNA,
- 25 you indicated that five swabs were taken?

MS. DARSCH: Your Honor, could the witness go in front of the jury and show the jury where she swabs the Glock? And

she will explain each area and why she swabs those areas.

THE COURT: Any objection?

MR. SCHUMACHER: No, your Honor.

THE COURT: You may.

MR. SCHUMACHER: May I move, your Honor?

THE COURT: Yes.

That is correct.

## BY MS. DARSCH:

Α.

- Q. Could you please show the jury where swab samples were obtained?
- A. When I am processing a firearm, the first area that you want to process for DNA is going to be this grip area. You can kind of see how textured that grip area is. That is one of the main reasons that we process this. When you think about texture, it is almost like a cheese grater to your hand. Every time you're gripping it and touching it skin cells are coming off. Because it is textured those cells are kind of holding on within the digits of this area. So, that is going to be the first area that I process for DNA.

The second area is going to be the slide area. You can kind of see these lines on both sides of it, so that is going to be the slide area that I swab. And this is a part that when you are racking a firearm, that is what you are pulling back

when you are trying to load it.

The third area is the trigger. That is what you are going to pull if you are pulling the firearm to fire it.

The fourth area is going to be the front and rear sights, so it is kind of these little digits, or this area that kind of pops out here and here. The reason that we do these is, if you are putting these firearms into your waistband or something, it may kind of rub up and down against that area, getting maybe some skin cells on that area. That is the reason why we do the front and rear sights.

The last swab sample that we do is going to be the magazine. You have to load a magazine with live rounds and put the magazine into this hollow area. You can see it is kind of hollow in here, that is going to be where the magazine goes. That is called the magazine well, so you have to put live rounds into the magazine right here. Once you get those in, you are going to use this to kind of push it and make sure it is secure within the magazine well.

So, those are going to be the five spots that I swab on the firearm.

- Q. You mentioned the different five areas that you swab the firearm for, and the first area you went to was the grip, and you explained it was for a textured surface?
- A. That's correct. As I said before, it does really well when you talk about friction. If you are holding on to a smooth

surface you might not be transferring or depositing as many skin cells versus something that is textured. It is really rough, when you are holding it, it is going to start to allow some of the skin cells to grip and hold on to that area.

Q. Thank you.

- A. You are welcome.
- Q. What did you next with the five swabs that you just explained after you swabbed this pistol for DNA?
- A. The first thing is that when I say a swab sample, and I should have explained that, it is two cotton swabs. So, think of like a Q-tip that you put in your ear to clean your ear or do eye makeup, it is going to be like that, but they are sterile.

So, it comes inside of a packaging, and there is two. So you would open that up, take out the sterile swabs, and then you have sterile water that we then wet the swabs on top. From there, we go over that area of interest that I just went over with you guys, the magazine, the grip, all those areas, swab it and then I return it back to that original packaging. Once the swabs are back inside, they go inside of a smaller manila envelope, and I seal that and I initial it.

Once I have done that for all five swab samples, all five now manila envelopes that contain each of the swabs in their own packaging, now will get packaged together as one and sealed.

- 1 Did you initial and label that envelope that you are 2 speaking about? Yes, I did. 3 Α. 4 MS. DARSCH: Your Honor, permission to approach. 5 THE COURT: Yes. 6 BY MS. DARSCH: 7 Q. I am showing you what has been marked for identification 8 purposes only as Government Exhibit 15. 9 Do you recognize it? 10 Yes, I do. Α. 11 Q. How so? 12 There is a label here and it will have my name on it that I 13 filled out, then on the back, that red seal, I have my 14 initials, AGE, and I have my identification number, 2081. 15 So, what is it? Q. 16 I am sorry, what --Α. 17 What are we looking at, Government Exhibit 15? Q. 18 A. This is the five swabs from that Glock that I showed you. 19 MS. DARSCH: Your Honor, at this time the Government 20 moves in evidence Government Exhibit 15.
- MR. SCHUMACHER: Judge, we would object. I would ask for leave to voir dire the witness based on our prior filings.

THE COURT: Before it is admitted?

MR. SCHUMACHER: Yes.

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THE COURT: You may do so.

1 MR. SCHUMACHER: Thank you.

2 BY MR. SCHUMACHER:

- Q. Ms. Eckroth, you took custody of this Glock on the day
- 4 | before; is that right?
- 5 A. So it would be March 3, 2022.
- 6 Q. Did you maintain continuous possession of that Glock during
- 7 | that time?

- 8 A. That is correct.
- 9 | Q. When I say possession, did you keep it in your car?
- 10 A. No. Within the crime scene unit, we have an evidence area.
- 11 | Each CSI has a locker with a lock. Any time we come back from
- 12 | a crime scene or we have evidence it goes into that secure
- 13 | locker and we lock it.
- 14 Q. I am assuming that when you process those flesh swabs and
- 15 | you put them into that particular envelope -- were there
- 16 | multiple envelopes for each swab or were all five inside of
- 17 | that?
- 18 A. When I talk about one swab sample, like from the grip, it's
- 19 two swabs within like this clear paper packaging. Once I swab
- 20 | the area, the swabs go into the white clear packaging, then
- 21 each swab goes into its own separate smaller manila envelope.
- 22 | Each of those then are sealed in their own manila envelope and
- 23 | then all five that are now sealed individually are then
- 24 packaged in here together.
- 25 | Q. Do you know when you processed these, what date and what

- 1 | time?
- 2 A. I processed the firearms you mean?
- 3 Q. Yes.
- 4 A. I processed those on Friday, March 4th.
- 5 | Q. The day following the seizure?
- 6 A. Yes.
- 7 | Q. 8:00 a.m.?
- 8 A. I believe I started processing around 8:00 a.m., yes.
- 9 Q. Is March 4th actually reflected on that label? It looks
- 10 | like a computer generated label; is that correct?
- 11 A. That's correct.
- 12 | Q. Do you have to input that information?
- 13 A. That's correct.
- 14 | Q. You put in the date of 3/4/2022?
- 15 A. Because that is the date that I collected the swab samples,
- 16 | that is correct.
- 17 | Q. Is there a also collection time noted on that particular
- 18 | item?
- 19 A. Yes, just zero, zero, zero, like midnight. We put
- 20 | that in, that is our standard. We don't put in an exact time
- 21 of when we got it, we just fill in the date and then let it be
- 22 | blank.
- 23 | Q. Are you familiar with the term "chain of evidence"?
- 24 | A. Correct.
- 25 | Q. That means you are going to ensure that what you are taking

- 1 | into evidence is the very same thing that you are processing.
- 2 | Is that fair?
  - A. Sure, that is fair.
- 4 | Q. Is it necessary on Palm Beach Sheriff's -- I'm sorry, you
- 5 | are West Palm Beach?
- 6 A. Yes.

- 7 | Q. My apologies.
- 8 A. You are fine.
- 9 Q. Part of that protocol is that you are required to keep the
- 10 date and time you are taking something out to process it,
- 11 | correct?
- 12 A. Not from my locker, no. If we are talking about chain of
- 13 | custody of something that has been submitted into evidence, we
- 14 | have an electronic log for that. If something is coming -- if
- 15 | I am processing something like from my locker, I notate that in
- 16 my report.
- 17 | Q. It is of no consequence to you that this item was actually
- 18 sampled closer to 8:00 a.m., but this is reflecting midnight,
- 19 | correct?
- 20 A. Yes, correct. Even though this is saying midnight, I did
- 21 | not collect it at midnight. I am putting in when I am going
- 22 | through the actual dates that I collected and then I hit the
- 23 | tab button. It is not reflective of the exact time. I notate
- 24 | that in my report with the time I started processing and the
- 25 | time that I finished processing.

has already established that she processed the firearms, she didn't put the exact time on the label. This doesn't go to admissibility, it goes to the weight of the evidence.  THE COURT: Any further inquiry regarding chain of custody?  MR. SCHUMACHER: No, Judge. I'll object to its ent though.  THE COURT: Based on what?  MR. SCHUMACHER: Foundation.  THE COURT: What do you mean, foundation?  MR. SCHUMACHER: I'd rather not do this in front of the jury, your Honor.  THE COURT: Okay. Can we proceed with inquiry, and then when we excuse the jury we can take this matter up?  MR. SCHUMACHER: Yes, ma'am.  THE COURT: Is the Government able to proceed with your questioning?  MS. DARSCH: Yes.  THE COURT: Okay.	1	Q. Do you know what happened to these samples between 8:00
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21 MS. DARSCH: Yes. 22 THE COURT: Okay.	19	THE COURT: Is the Government able to proceed with
22 THE COURT: Okay.	20	your questioning?
_	21	MS. DARSCH: Yes.
	22	THE COURT: Okay.
23 BY MS. DARSCH:	23	BY MS. DARSCH:
Q. Now turning your attention away from DNA of the Glock	24	Q. Now turning your attention away from DNA of the Glock
25 pistol, did you also examine this Glock for possible latent	25	pistol, did you also examine this Glock for possible latent

1 prints?

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A. Yes, I did.

Q. What is the first step you took to examine the Glock pistol

4 | for latent prints?

5 A. I examine with both kind of ambient lighting, which is

6 overhead lighting, and I also use oblique lighting and a

- 7 | flashlight to go over the firearm to see if I can't see or
- 8 enhance anything that is latent, but can be brought out with
- 9 | lighting.
- 10 Q. Is there another step?
- 11 A. That is subsequent to processing for super glue, yes.
- 12 | Q. What is the second step?
- 13 | A. So the second step, after I have examined something for
- 14 prints with overhead lighting and oblique lighting, I then put
- 15 | it into the super glue chamber, which is pretty much an
- 16 | enclosed area. We literally put super glue into a tray and it
- 17 | is heated. When it is heated, it begins to produce a fume or a
- 18 | vapor. If there are any prints that may be present on an item,
- 19 | the super glue will adhere to those areas so that we can try to
- 20 | either visualize them or try to enhance them further.
- 21 | Q. Is there a third step?
- 22 A. Yes. So, after something is super glued, I do another
- 23 | visual examination. Super glue, when it is kind of dried, it
- 24 | appears white in color. So, especially when we are talking
- 25 about a darker background it may kind of pop a little bit

better than some other items, so I usually tend to do a secondary visual examination with lighting.

I also use purple colored light, which is kind of like ultraviolet light, it's around 350 amperes. I also do that after the super glue just to see if there is anything, any prints that may be fluorescing that I could see.

After that is done, my next step would be to use a dye scene, and what that is, it is fluorescence, and you apply it to something that you have super glued. It is designed to adhere to the super glue, and then you apply various colored lighting. In this case, I did a blue color light, it causes that dye to fluoresce, and if there is a print present, I would try to visualize using that way.

- Q. So the jury understands, what is a latent print?
- A. If you look at your fingertips, you see we all have ridges, and so what happens in a latent print, our fingers are secreting different secretions. There is water in it, different amino acids. So, when you touch something sometimes, depending on that, you can leave, just like this, a latent print.

What that means is you can't really see it initially with your eyes, but you can try to develop it or enhance it for visualization purposes.

Q. So, going back to the three steps you mentioned previously, were there any latent prints of value on the firearms?

A. Of value on the Glock? No. I did submit a print from the Springfield firearm. That was not of value either.

- Q. So there weren't any prints of value on either firearm, just to clarify?
- A. That is correct.

- Q. How do you determine whether a print is of value?
- A. So, where I come into play when it comes to latent prints we have a latent print unit, they do the identifications. My job is to try to determine if something is of value or not of value.

Typically, we are looking at the totality of the prints.

There is a lot of factors that go into what a print is, it could be a full fingerprint, a partial fingerprint. You look to see can you see a pattern to the print, is it an arching pattern, is it a whirling pattern, is it a looping pattern, can we see pores, can we see scars.

When we actually get into looking at the ridge detail itself, I am looking to see can I see points of interest, is it just a straight line with no detail, is it creating a Y shape, is it ending and creating a ridge ending, is it opening and coming back together and creating a pooling effect.

There are a lot of different things we are looking at, so I do -- through my training and experience at West Palm Beach, I make the determination of is this print of value to submit to the latent print section, is this print not of value, or is it

1 | borderline, at that point which it would be submitted.

- Q. You mentioned earlier that you have investigated over 300 firearms. How many of those cases are Glocks?
- A. About 20 percent of all firearms that I have handled are Glock firearms.
  - Q. Turning back to all of your firearm investigations, do you generally get latent prints off of firearms?
- 8 A. Not typically, no.
- 9 Q. Why were you unable to get any latent prints of value from this Glock pistol?
- 11 A. Am I allowed to hold the firearm up?
- 12 Q. Yes.

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A. If you look at the frame here, which is kind of this portion, it's kind of like a plastic polymer. While it may appear kind of smooth, if you feel it, it is a little rough. That doesn't really do well for developing latent prints. If we get up to the slide area here, this metal, it also doesn't do well with developing prints. It is really hit or miss. The person that deposited the prints, again, there is a lot that goes into whether a print will be there or not.

Just because you touch something doesn't mean a print will be there, it's how sweaty are your hands, how oily are your hands, did you just wash your hands, have you been touching your hair or your face, that could also add on extra areas that you touch. What is the surface that you're touching, is it

smooth, is it not smooth, is it absorbent, how hard did you push, was there movement. A lot goes into latent prints, and particularly when it comes to the Glock, all of that is a factor, but particularly that metal is really not conducent to latent prints.

Q. All right. Turning away from swabbing the Glock pistol and looking for prints of value, I now want to ask you: Did you test fire this Glock pistol?

- A. Yes.
- 10 | Q. Where?

- 11 A. At the West Palm Beach Police Department.
- 12 | Q. Could you please explain this process?
  - A. Yes. So we have a cannister, it is filled with we call them blueberries, but they are small tiny rubber balls and they are in this metal cannister. That metal cannister has an opening on the end that has like a rubber opening on top of it. That then goes into this even bigger metal encasing that kind of goes all around it.

So, what we do is, when we are test firing we want to put two live rounds, and we put those live rounds of ammunition into the magazine of the firearm. We do that for two purposes; one, we want to make sure that the firearm functions, and two, we want to make sure that it loads the second live round correctly into the chamber.

The first thing we would do is load the magazine with the

two live rounds, put it into the magazine well, then rack it back, which would load that first top live round that's in the magazine now into the chamber. We are now putting the muzzle of the firearm against that rubber lip that I was telling you about of that cannister.

When you pull the trigger, it is going to expel one projectile down the barrel into that cannister, which is going to stop, which is what all those rubber balls do, they stop the projectile from going through, and then it will eject the casing. Because it is a semiautomatic pistol, it will now automatically load the second round. Once it loads the second round, I now have to pull the trigger a second time to expel the second projectile down the barrel into the cannister and it will now eject the second live round — or the second casing.

In this situation, I pulled the trigger and it expelled both live rounds, one immediately after the other. That is not typical of a semiautomatic pistol. That is typical of a fully automatic pistol.

- Q. Were you wearing a bulletproof vest at that time?
- 20 | A. I was, yes.

- Q. About how far away are you, when you are talking about the cannister with the blueberries as you stated, is it target shooting range?
  - A. From me to here, however far out I can pull my arm, that tip of the muzzle is right up against where that cannister

goes.

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- Q. So, about two feet?
- A. Probably, yes, whatever my arm distance would be.
- Q. You mentioned earlier that when you test fired this pistol
- 5 | the second round came back with a single trigger pull?
- 6 A. Yes. I pulled the trigger one time, I was not expecting
- 7 | this firearm to be fully auto. I have never come across a
- 8 | fully auto firearm before. I loaded the two rounds and I
- 9 pulled the trigger the one time.

10 What happens when you fire a gun, there is going to be a

11 | little kick depending on how much -- what the caliber is, the

12 | type of ignition. When you pull that trigger your arm goes up

13 | a little bit and then you steady yourself and then you pull the

14 | trigger the second time. Because this was a fully automatic

15 | firearm, when I pulled that trigger it kicked, but it continued

16 to fire as it kicked.

17 So, instead of that second projectile going into the

18 cannister, it ricocheted off the edge of the cannister. I was

19 | never able to find the second projectile, but when I looked

20 down at me I had fragments of jacketing, which is what coats

21 | the bullet. I had a fragment that was on my shirt, and I had a

22 | burn mark where that casing had come back and then dropped down

23 | and burned my chest a little bit, nothing severe, but it was a

little red.

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Q. Were you wearing a helmet?

A. No. I had my safety glasses, my ear muffs, which is for ear protection because it's very loud, and then my vest.

- Q. Was anyone else in the room with you?
- A. Part of our protocol when we test firearms, we always have to have a buddy with us in case something goes wrong. I did have my shift partner with me at the time.
- Q. Did he have a bulletproof vest on?

- A. No. He was standing behind me and to my right out of the area.
- 10 Q. After this happened, did you notice anything -- did company 11 policy change?
  - A. Yes. So, immediately after this I was very emotionally upset. I notified my lieutenant, my supervisor, I let them know what had happened, that I did not realize that this was modified to fully auto. Because of this incident, we actually have training now, we dry fire all of our firearms now before we load any round in.

What a dry fire is, you can put the magazine in -- you can do it with or without the magazine -- the purpose is, you pull that trigger, you are going to rack the slide back and release the trigger. If the trigger resets, it is semi auto. If the trigger stays pulled, it is fully auto. So, it kind of gives us a heads up of if we don't realize something is now fully auto, at least with a dry fire it gives us an indication, hey, now you need to proceed with caution.

- 1 | Q. Now turning to Government Exhibit 14, the other firearm,
- 2 | the Springfield Armory pistol.
- 3 A. Yes.
- 4 | Q. Did you transfer the Springfield Armory pistol to a weapons
- 5 | box?
- 6 A. Yes, I did.
- 7 | Q. Were additional photographs taken?
- 8 | A. Yes.
- 9 Q. I am showing you Government Exhibit 9, which has already
- 10 been admitted into evidence. Give me a moment so it can appear
- 11 on the screen.
- 12 Is this the Springfield pistol in the weapons box?
- 13 | A. Yes, it is.
- 14 | Q. Is this the second firearm that was on that table in the
- 15 residence?
- 16 A. Yes, it was.
- 17 | Q. Is this the magazine that was attached to it?
- 18 | A. Yes.
- 19 Q. Was that magazine loaded?
- 20 A. Yes, it was.
- 21 | Q. This Springfield Armory pistol, was there one live round in
- 22 | the chamber?
- 23 A. That is correct.
- 24 | Q. Okay. Did you swab this Springfield pistol for possible
- 25 DNA?

1 That is correct. Α. 2 Where was this firearm swabbed for DNA? Also at the West Palm Beach Police Department. 3 A. And how many swab samples were obtained? 4 5 Α. Also five on this one. Q. And could you show the jury again with this pistol --6 7 permission for her to show this Springfield Armory pistol --8 briefly where you swabbed the areas of it? 9 THE COURT: Any objection? 10 MR. SCHUMACHER: No, your Honor. 11 THE COURT: Let me inquire of counsel, how much longer 12 on direct? 13 MS. DARSCH: Thirty minutes. 14 I think we may find a convenient breaking THE COURT: 15 point after she showing the jurors and then break for the 16 evening and have the witness come back. 17 MS. DARSCH: Okay. 18 THE WITNESS: This is -- the Springfield is very 19 similar to the Glock where it has that texture grip, so that is 20 the area that I swab. The same with the slide, it has these 21 two kind of textured areas that I swabbed. This also has the 22 front and rear sights that I swabbed, as well as the trigger

here, and then the magazine, and all for the same reasons as

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for the Glock.

BY MS. DARSCH:

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Q. Thank you.

THE COURT: Were there any further questions on this area?

MS. DARSCH: Yes, they are relating to the five swabs on this and the same as the Glock pistol.

THE COURT: You can finish that line and then we'll conclude.

9 BY MS. DARSCH:

- 10 Q. What did you do with the five swabs after swabbing the 11 Springfield Armory pistol for DNA?
  - A. Similar to how I did with the Glock, every swab went back into the original packaging, each one of those swabs goes into a manila envelope that I seal and initial. Then, from there, all five sealed and initialed swabs go into the outer packaging and sent off to become sealed and initialed. Sorry.
  - Q. Did you initial and label an envelope associated with the Springfield Armory pistol swabs?
  - A. Yes.

MS. DARSCH: Permission to approach.

THE COURT: Yes.

BY MS. DARSCH:

Q. I am showing you what is marked for identification as Government Exhibit 16.

Do you recognize it?

A. Yes, I do.

Q. What is it?

A. It is going to be the swabs that I obtained from the Springfield pistol.

Q. How do you recognize it?

A. I have a label with my name on it that I filled out, as well as the seal on the back that has my initials and my identification number.

MS. DARSCH: At this time the Government moves Government Exhibit 16 into evidence.

THE COURT: Any objection?

MR. SCHUMACHER: Yes, Judge, the same objection as before. I will just proffer, Judge, that that is the same documentation with the same zero, zero time period.

THE COURT: Okay. We can take that up as well with Government Exhibit 15 outside the jury's hearing.

MR. SCHUMACHER: Yes.

MS. DARSCH: There is nothing further relating to this line of questioning. The next line of questioning relates to the latent fingerprints on this pistol.

THE COURT: We will conclude for the evening.

Okay. Ladies and gentlemen, thank you for your attention. This tends to be one of the longer days again because of the jury selection process in the morning, so we very much appreciate your full attention to the case. We are

going to excuse you for the evening.

I want to reinforce the same important instruction, which is that you are not to discuss the case with anyone nor are you to conduct any research. As I mentioned, if people inquire about your day, it is fine to say you have been in the courthouse all day and you have been selected as a juror in a case, and it should last for the portion of this week, but that is the extent of it.

Do not disclose anything further because inevitably someone might give you a point of view or an opinion and that could influence you in some way outside the hearing of the lawyers and the Court to be able to determine whether someone else's point of view about a particular case would be appropriate for you to hear while you are sitting as a juror.

So it is critically important that you abide by that rule even as well as refraining, even if you are curious about researching anything, anything you need to learn factually or from the standpoint of the law will be told to you here in court.

With that, we will excuse you and ask you to return tomorrow to be ready to be brought back in tomorrow morning at 9:00 a.m. So give yourself time to make it here where Melanie meet you and bring you back in at 9:00 a.m.

Thank you very much and have a nice evening.

(Thereupon, the jury leaves the courtroom.)

1 Okay, you may be seated. THE COURT: I remind our 2 witness that you do remain under oath and not to discuss your testimony before we come back tomorrow. 3 4 So, let me hear the full argument on the Exhibits 15 5 and 16. 6 Judge, if we could, there are MR. SCHUMACHER: 7 original property receipts attached on the back of each 8 envelope, but they are sealed. Can we unseal those is to get 9 access to them? 10 Typically, I prefer to do that in front MRS. CHASE: 11 of the jury when we are breaking seals. 12 MR. SCHUMACHER: Mr. Boone has his copies and I have 13 mine, but I don't have them immediately accessible. He didn't 14 bring his with him today. 15 THE COURT: Do you have copies of them that you can 16 show? 17 MRS. CHASE: We don't have printed copies of the 18 exhibits. As Mr. Schumacher noted, they do have copies in 19 discovery. 20 MR. SCHUMACHER: Judge, I don't anticipate this will 21 take a long time to make the record. Perhaps we could do this 22 a little bit earlier this morning. 23 THE COURT: What is it are you relying upon to make 24 the record? 25 MR. SCHUMACHER: The property receipts themselves,

Judge. It will come up on these two firearms, as well as the actual standard that was taken from Mr. Boone concerning his DNA. There are some lapses that are occurring between the entry times for something to be transported and when they are actually being tested. There is no notation as far as where they are in the record during that time period.

That is why I filed the motion for -- motion in limine, and that is why we are at this point. It is going to involve these two firearms, Judge, as well as the swabs taken from him and processed for DNA.

THE COURT: Is there a response from the Government?

MRS. CHASE: Yes, your Honor. First off, the United

States submits that none of this is necessary. It is well
established in the Eleventh Circuit that gaps in the chain of
custody affect only the weight of the evidence and not its
admissibility. I cite to a published Eleventh Circuit case,
United States v Roberson, R-O-B-E-R-S-O-N. This citation is
897 F.2d 1092, and it is a 1990 opinion, and that quotation
that I just noted for the record is on page 1096 of that
opinion.

This is not actually the first case to mention it in the Eleventh Circuit. There is prior case law dating all the way back to when the Eleventh Circuit was part of the Fifth Circuit. This is such a well-established principle that the Supreme Court has made note of it in passing in other cases.

Your Honor, we would note that this should not affect these exhibits coming into evidence, and if there are breaks in the chain of custody, Defense can argue toward their weight in closing.

Second, your Honor, we actually believe that some of these gaps will be factually closed. We have witnesses coming who will testify to the transport of the swabs for Mr. Boone to the lab and why there is a delay on the chain of custody receipt to which Mr. Schumacher is referring.

I do not believe that there should be any argument as to the chain of custody for the firearms themselves because Eleventh Circuit case law also establishes firearms being unique and readily identifiable by unique characteristics, including and especially because their serial numbers are not typically subject to the same chain of custody arguments that other evidence are.

THE COURT: And there is United States versus Lopez, 758 F.2d 1517, at 1521, Eleventh Circuit, 1985, where the appellant complained that there were two gaps in the making of the chemical analysis, and as recognized by the appellant, gaps in the chain of custody affect only the weight of the evidence and not its admissibility.

Is there any further argument from Defense as to the point of an argued chain of custody or a gap that the Government says nevertheless can be addressed with subsequent

1 testimony or evidence? 2 MR. SCHUMACHER: Nothing additional subject to that 3 being tied up. 4 THE COURT: Okay. Would the Government, in an 5 abundance of caution, want to wait and have the two exhibits 6 marked at this time, which they are, and you will tell me when 7 the witnesses have testified that you think close the gap and 8 reraise the issue of the admissibility of the two exhibits? 9 In other words, can you proceed with this witness and 10 with your case having 15 and 16 marked at this point? 11 MRS. CHASE: Absolutely, your Honor. 12 THE COURT: And raise it again when you feel the gap 13 has been closed? 14 MRS. CHASE: Yes, your Honor. 15 THE COURT: All right. I will make a note that 15 and 16 16 are marked only, and the Government will move again to admit 17 once further evidence is presented. And if Defense at that 18 time maintains any argument, you can make that argument at the 19 time. Okay? 20 (Whereupon Government Exhibits 15, 16 were marked for 21 identification.) 22 MR. SCHUMACHER: Thank you, Judge.

Pauline A. Stipes, Official Federal Reporter

About 20 minutes.

our witness on the stand will be how much longer on direct?

Trying to get a game plan for tomorrow,

THE COURT:

MS. DARSCH:

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1	THE COURT: So from about 9:00 to 9:20. What about
2	cross?
3	MR. SCHUMACHER: Maybe 20 minutes, your Honor.
4	THE COURT: All right. 9:20 to 9:40, more or less.
5	Who would be the next witness?
6	MRS. CHASE: Officer Marcus Beesley, your Honor.
7	THE COURT: About how long will Beesley be?
8	MRS. CHASE: 15 minutes on direct, your Honor, max.
9	THE COURT: And cross?
10	MR. SCHUMACHER: Hard to say, Judge. 15 minutes let's
11	say.
12	THE COURT: Okay. And then who would be next?
13	MS. DARSCH: Frederick Fischer.
14	MRS. CHASE: I apologize, your Honor, tomorrows is CSI
15	Fischer's day off. We may take him out of order on Wednesday
16	to avoid him waiting for a long time on his day off.
17	MS. DARSCH: Okay.
18	THE COURT: So not Fischer tomorrow?
19	MRS. CHASE: We are going to confer tonight, your
20	Honor. Whenever we do, he is the witness who will tie up the
21	break in the chain. However, it would be our preference to
22	avoid him sitting waiting to testify and then actually
23	testifying on his day off, and I believe the United States can
24	submit other witnesses and take him perhaps a little mentally
25	out of order on Wednesday.

1	THE COURT: All right. Who else would then be called
2	tomorrow?
3	MS. DARSCH: Dusten Campbell.
4	THE COURT: How long do you think Campbell will be.
5	MS. DARSCH: An hour and a half.
6	THE COURT: Okay. And who else would we have
7	tomorrow?
8	MS. DARSCH: La'Nisha Gittens.
9	THE COURT: Okay. And how long do you think Gittens
10	will be?
11	MS. DARSCH: Approximately 45 minutes.
12	THE COURT: Okay. And who next?
13	MS. DARSCH: Todd Cohen.
14	THE COURT: How long do you think Cohen will be?
15	MS. DARSCH: 20 minutes.
16	THE COURT: Okay. And who else?
17	MS. DARSCH: Mark Finnamore.
18	THE COURT: How long do you think Finnamore will be?
19	MS. DARSCH: Three and a half hours.
20	THE COURT: He is long, okay. All right. And who
21	else do we not tomorrow, but just to understand who else,
22	then?
23	MRS. CHASE: Your Honor, we have two witnesses who are
24	traveling from out of town. Damon Wright will arrive tomorrow
25	evening and we will be ready to call him Wednesday morning.

1 Anthony Ciravolo is also traveling from out of town. 2 leaving first thing Wednesday morning so he can spend Halloween with his family, and we will be ready to call him -- if all 3 4 goes well, he should be ready to testify at approximately 10:30 5 Wednesday morning. I do believe between Agent Finnamore's testimony, CSI 6 7 Fischer coming in on Wednesday on his day back to work and 8 Specialist Wright being here, we should be able to fill all the 9 testimony without any gaps. 10 THE COURT: On Wednesday? 11 MRS. CHASE: Yes, your Honor. 12 THE COURT: Are there any other witnesses after that? 13 MRS. CHASE: No. 14 THE COURT: Okay. Well, I am thinking that tomorrow, 15 if all goes smoothly, we -- if you are not bringing Fischer in 16 tomorrow that we make it to a point of beginning with 17 Finnamore, is that what you are anticipating, but not finishing 18 with Finnamore? And the following day, on Wednesday, we would 19 have -- how long is Wright? 20 MRS. CHASE: Wright is very short, your Honor. Ι 21 think his direct is approximately 15 minutes. 22 THE COURT: How about Ciravolo? 23 His direct is probably half an hour. MRS. CHASE: 24 THE COURT: And Fischer? 25 MRS. CHASE: Fischer is also very short, ten, 15

minutes on direct. 1 2 THE COURT: The big one is Finnamore it sounds. 3 MRS. CHASE: Yes, your Honor. 4 Tomorrow is my birthday and my wife MR. SCHUMACHER: 5 and I have plans. If it is possible, if we could end at 5:00, that would be greatly appreciated. 6 7 THE COURT: Okay. Happy birthday in advance. I won't 8 ask how old. 9 MR. SCHUMACHER: 61. 10 THE COURT: That is a good age. 11 Yeah, I want to make sure we -- yes, we can finish by 12 5:00. Let's try to keep a tight schedule. If we can -- if we 13 can get through all of the witnesses and begin Finnamore, I 14 think that would be very productive. 15 I would like to conclude the case by Thursday, that is 16 The Court has a conflict on Friday, and all sorts of the goal. 17 things next week, that is why we went later today. I did not 18 ask them to come earlier tomorrow. If we are falling behind 19 tomorrow, I might have to make up for that on Wednesday, but I 20 think we should have it to the jury and the jury deliberates by 21 Thursday. 22 MRS. CHASE: Absolutely, your Honor. I think we are 23 well on track for that.

we will see everyone back to start back at 9:00 a.m.

THE COURT: Great. Everyone have a nice evening and

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Pauline A. Stipes, Official Federal Reporter

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